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Claremont McKenna College

The Road to Human Emancipation –
The Moral and Political Foundations of Markets

submitted to
Professor Paul Hurley and Professor George Thomas

by

Zheyuan (William) Shi

for

Senior Thesis

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Abstract

The thesis aims to provide both a real public ideology and socioeconomic structures to realize Karl Marx's ideal of human emancipation. Marx argues that in capitalist society, the legal and political superstructure forces the ruling class to represent its interest as the public interest, which legitimizes the massive inequality in resources and social power. In this regard, the two parts of the thesis have two goals. The first part aims to formulate a rightful candidate to the public ideology of human emancipation, which represents the substantive public interest rather than the hypocrisy of the ruling class. The second part aims to formulate the legal and socioeconomic structures of the Social Economy, which is the social system that corresponds to the public ideology and restores the equality of both resources and social power. The first part is the philosophical analysis, and the second part can be viewed as a set of proposals informed by both normative and empirical research to transform the economy and society.

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Introduction - The Ideal of Human Emancipation

"If he works only for himself, he may perhaps become a famous man of learning, a great sage, an excellent poet, but he can never be a perfect, truly great man.

...

If we have chosen the position in life in which we can most of all work for mankind, no burdens can bow us down, because they are sacrifices for the benefit of all; then we shall experience no petty, limited, selfish joy, but our happiness will belong to millions. Our deeds will live on quietly but perpetually at work, and over our ashes will be shed the hot tears of noble people."

- Karl Marx, Reflections of a young man on the choice of a profession, 1835

These lines are more than just the reflections on choosing a job by Karl Marx as a high school student; they also hint at the idea of "species-beings," which Marx regards as the human essence. The species-being is one paramount, if not the only, prerequisite of human emancipation, which as the title shows, is the main theme of the paper. It might be perhaps perplexing regarding the specific meaning of human emancipation. There is neither slavery nor serfdom anymore, so who should we emancipate and from what? In his less-known work *On the Jewish Question*, Marx explains his conception of the species-beings and the distinction between the rights of man and rights of citizens, and between political emancipation and human emancipation.

Marx sees species beings as the human essence or the obligatory human essence, if not the only human essence. Animals have consciousness because they are aware of themselves, or their consciousness is the self-consciousness of their particular individuals. Human are different because they are conscious of both themselves and other members of the human species. In this regard, human can be called "species-beings."¹ As human are essentially social animals, their self-consciousness presupposes the context and their places within society and humanity.

¹ Karl Marx, *On the Jewish Question* in *The Marx-Engels Reader*, second edition edited by Robert C. Tucker, New York, NY and London, UK: W. W. Norton & Company, Inc, 1978, 33-35.

Because individuals' self-awareness presupposes society and humanity, their self-affirming and self-actualizing activities should constitute the actualization of species-being or the communal essence. Namely, people should regard their fellow human beings as the object or goal and thus affirm both themselves and others as species-beings.² Only by acting as species-being and treating others as species-beings can an individual stop being an isolated and self-interested individual and attain real freedom in community.³

Marx defines political emancipation as the emancipation from public domination, the recognition of political rights and liberty at the political level, which are independent of any particular element of individuals' private life.⁴ Without political emancipation, for example, under theology or a partial democracy with property qualification: the state politically affirms one particular element of some members over those of others. Politically, these or those elements dominate other elements, and these elements conflict and oppose each other. With *political emancipation*, the state does not recognize any private elements of its members but rather grants political liberty to all members of citizens; thus, the state allows the coexistence of every private elements free from encroachment and interference.⁵ For example, the state abolishes the property qualification in order to vote and does not recognize any religion. Thus, at the political level, citizens of this or that religion and with or that level of property recognize each other's political rights and liberty. The political rights recognized and enjoyed are thus *the rights of man*, which every citizen has on the basis of his or her citizenship only rather than some particular and private elements.⁶

² Allen Wood, "The Human Essence" and "Alienation" in *Karl Marx*, New York. NY: Routledge, the Taylor & Francis Group, 21.

³ Karl Marx and Friedrich Engels, *The German Ideology*, 197-198.

⁴ Marx, 31-33.

⁵ Ibid.

⁶ Ibid., 41-44.

Nevertheless, Marx argues that “a state may be a free state without man himself being a free man.”⁷ Although politically, everyone has political right and liberty, such rights and liberty are merely the rights and liberty of non-interference, based on egoistic, private interests, and the separation of man from man. Politically, everyone recognizes each other’s political liberty and rights, but in civil society, people are preoccupied with their private, particular, and egoistic interests without acting in ways to further the good of their community and fellow citizens.⁸ For example, devoid of religious persecution, people of Judaism and Christianity may still oppose each other in their private religious spheres. Despite the abolition of property qualification and the public recognition of the right to private property, the rich can still be preoccupied with their accumulation of wealth for personal sake and disregard the poor. By acting on the rights of man, people respect rights on the ground of non-interference and separation. In this way, people have dual characters in their *political community* and *civil society*: in *political community*, people act in ways in accordance with political rights and liberty and consistent with the requirement of the community; in *civil society*, however, people are acting as egoistic individuals, preoccupied with individual interests that separate them from the general interest universal to all people in a community.⁹ Therefore, under political emancipation, people who exercise the rights of man are alienated from their species-beings as human essence, for “*he lives in in the political community, where he regards himself as a communal being, and in civil society where he acts simply as a private individual, treats other men as means, degrades himself to the role of a mere means, and becomes the plaything of alien powers.*”¹⁰

⁷ Ibid., 32.

⁸ Ibid. 34-35.

⁹ Ibid. 35.

¹⁰ Ibid., 34.

Eliminating this alienation act from the standpoint of species-beings. By living and acting in this way, political rights should not be based on their private elements, egoistic interests, and the separation of man from man. Rather, political rights of each person should be based on the fulfillment and flourishing of everyone, including himself/herself and everyone else, which is made possible via participation in communal affairs and the civic duty toward the state and their fellow citizens in both political and non-political spheres. In this sense, political rights are no longer the rights of man but the rights of citizens.¹¹ It is only in this way that people interact with each other in ways in accordance with the communal good and independent from their particular interests, which only separate and alienate people. The species-being is possible only if people live and act as species-beings and exercise the rights of citizens.¹² In this way, *human emancipation*, which is thus the emancipation of citizens from the domination of their people's private elements and egoistic interests, is finally realized. To summarize the meanings of political and human emancipation, Marx briefly puts it as the following:

"Political emancipation is a reduction of man, on the one hand to a member of a civil society, an independent and egoistic individual, and on the other hand, to a citizen, to a moral person.

*Human emancipation will only be complete when the real, individual man has absorbed into himself the abstract citizen; when as an individual man, in his everyday life, in his work, and in his relationships, he has become a species-being; and when he has recognized and organized his own powers as social powers so that he no longer separates this social power from himself as political power."*¹³

After drawing these distinctions, perhaps it is easier to see why Marx thinks that "a famous man of learning, a great sage, an excellent poet may never be a "perfect, truly great

¹¹ Ibid., 41-42.

¹² Ibid., 40, 46-47.

¹³ Ibid., 46.

man.” Rather, by working for mankind “shall we experience no petty, limited, selfish joy, but our happiness will belong to millions.”

Based on such distinctions, the institutionalization of democracy only realizes political emancipation rather than human emancipation, if democracy is seen as the means to secure the rights of man as the end, which are based on egoistic interest.¹⁴ Moreover, the guiding ideas of democracy, such as “life, liberty, property” are all examples of rights of man based on egoistic individuals. For example, the rights of property are affirmed so that the property of the ruling class, which was threatened under the old regime, is now secured under democracy.

Nevertheless, by aiming rights of man as the end, democracy can never be used to actualize the general interest and consequently, human emancipation for all citizens. To march toward human emancipation, the exercise of political rights should also function as means (not as mere means) to work toward the public interests.

Nowadays, democracy arguably realizes political emancipation and the rights of man more than it affirms human emancipation and the rights of citizens. For example, in the U.S., democracy has witnessed an impoverished civic engagement, which has manifested itself in various forms of civil associations.¹⁵ It is also argued that the U.S. gradually transitioned from a republican conception of freedom to the liberal conception of freedom. This transition marks a change in people’s conception of freedom. People used to think about self-government, or the participation in political affairs and deliberation about the common good, as the way to secure their freedom. Gradually, a liberal conception of freedom substitutes the idea of self-government

¹⁴ *Ibid.* 44

¹⁵ Robert Putnam, “Bowling Alone: America’s Declining Social Capital,” *Journal of Democracy*, Vol 6, No. 1, January 1995, <http://muse.jhu.edu/article/16643>.

such that people act in ways as individuals who are free to choose ends and values without encumbered by empirical constraints, including their communal obligations.¹⁶

Perhaps a more widespread problem is the separation between man and man in the socioeconomic realm as a result of political emancipation. While democracy recognizes each member of a political community as equal citizens, it tolerates a staggering level of economic inequality generates in markets, or more specifically, capitalist markets. Between 1980 and 2018, the share of the top decile of the income distribution rose between around 25 and 35 percent to 35 and 55 percent in India, the United States, Russia, China, and Europe.¹⁷ In the U.S. and Europe, the top share of wealth by the top decile has increased to more than 70 and 60 percent respectively. After the financial crisis in 2008, the talk about the shrinking middle class and the diminishing opportunities has been increasingly commonplace in western democracies. The escalating inequality under capitalism also partly fuels the rise of populism and prompt discontented voters to consider authoritarian alternatives.¹⁸ Is such a combination of political equality and non-political inequality compatible? An excerpt from Liu Cixin's short story *The Wage of Humanity* might shed some light:

"Without a common basis between two species, real sympathy cannot exist. It was humanity's second evolution. The first was our split from the apes, relying on natural selection; this was the split of the rich from the poor, relying on a principle just as sacred: The inviolable right to private property."

"That principle is currently sacred to our world as well," Mr. Smoothbore noted. "On the First Earth, this rule was maintained by the so-called 'Machine'. That system was a powerful means of enforcing society's rules and its Enforcers could be found in every corner of our world. Some Enforcers were no bigger than bugs, but one and all, they were powerful enough to kill hundreds in the blink of an eye."

¹⁶ See Michael j. Sandel, "The Constitution of the Procedural Republic" in *Democracy's Discontent*, Cambridge, MA and London, England: The Belknap Press of Harvard University Press, 1996.

¹⁷ Thomas Piketty, *Capital and Ideology*, Cambridge, MA and London, England: The Belknap Press of Harvard University Press, 2020, 20-21.

¹⁸ Yascha Mounk, "Democracy is Deconsolidating" in *The People VS. Democracy*, Cambridge, MA: Harvard University Press, 106-11.

The rules they obeyed were not the Three Laws of Robotics proposed by your Asimov, but instead the foundational law of the First Earth's constitution: Private property shall be inviolable. They were in no way agents of autocracy. Far from it; they enforced the law with absolute impartiality, irrespective of social status. If the pitiful property of a poor person was threatened, they would protect it like anyone else's, in strict accordance with our constitution.

Under the powerful protections of the Machine, the First Earth's wealth was concentrated among an ever smaller minority. Technological developments lead to another change: The independently wealthy no longer needed anyone else. In your world, the affluent still need the poor; factories still need workers. But on the First Earth, machines no longer required operators and highly efficient robots could fill any and every function. The lower classes had nothing left to offer or sell and so were plunged into abject poverty without recourse, devoid of all hope of betterment. As this situation developed, it completely transformed the essence of the First Earth's economy, accelerating the concentration of wealth at an incredible speed.

"I would not be able to explain the highly complex process of wealth concentration to you," the alien said, "but in essence it was no different than the operations of capital markets in your world. In the time of my great-grandfather, sixty percent of the wealth of the First Earth was under the control of ten million; in the world of my grandfather, eighty percent of our world's wealth was in the hands of a mere ten thousand. And, when my father was young, ninety percent of the wealth was held by no more than forty-two individuals.

"When I was born, capitalism on the First Earth had reached the peak of peaks, producing an almost unbelievable marvel of wealth: Ninety-nine percent of the wealth of our world was now in the hands of single person! That person was known as the '[Ultimate Capitalist]'.

"Even though there was still a gap between rich and poor among the other two billion, they were vying for nothing more than the remaining one percent of the world's wealth. And so the First Earth became a world with one rich man and two billion poor. The constitution remained and with it the inviolability of private property. And the Machine continued to faithfully carry out its duty, protecting the private property of that sole individual.

"Do you want to know what the [Ultimate Capitalist] owned?" the alien asked, but gave Mr. Smoothbore no chance to answer. "He owned the entire First Earth! Every last continent and ocean of our planet became his private halls and gardens. Even the very air and atmosphere became his private property. The remaining two billion poor lived in completely sealed homes, separated from the world outside. Inside, these homes were equipped with entirely autonomous miniature eco-cycle systems that used their own pitiful supplies of water, air, and soil to provide for the tiny world sealed within them. The only thing they could

*take from the outside world was the last resource not the property of the [Ultimate Capitalist]: Sunlight.*¹⁹

It might be said that Liu's story is an exaggeration, but the reality is not so much different: In the U.S., three men owned more wealth than half of its population.²⁰ More importantly, written in 2005 as a critique and premonition of capitalism will finally become, it concerns that an oligarchy in civil society may gradually form within political emancipation. By enshrining the rights of man or supremacy of rights based on separation and non-interference, it is possible that the combination of constitutional democracy and capitalism works toward the privilege of the top rather than the real general interests. To borrow some Hegelian terms, Francis Fukuyama once argued that liberal democracy is the final form of the development of political institutions.²¹ Nevertheless, while human nowadays universally condemn slavery, we seem to tolerate and even take pride in a social system, in which a slim minority profit, and the majority suffer. It is in this regard that history arguably has to move forward. Political emancipation and the rights of man are the truth for the epoch of our times, but they are far from the truth, that is, the correspondence between reason, the public ruling ideology and political, socioeconomic structure, for the end of history. Liberal democracy in its present forms that does not aim the rights of citizen and human emancipation still has its own contradictions, which need to be transcended such that democracy can constitute itself as universality."²²

At this critical moment, it is imperative to reflect on the road to human emancipation. The road to human emancipation lies primarily in the intersection between the public institutions

¹⁹ Liu Cixin, *The Wage of Humanity* in *The Wandering Earth: Classic Science Fiction Collection* by Liu Cixin, 247-249, 201-255

²⁰ Luke Savage, "America is an Oligarchy. It Doesn't Have to Be." *Jacobin*, February 25, 2019, <https://www.jacobinmag.com/2019/02/us-oligarchy-wealthy-billionaires-democracy>, accessed April 18, 2020.

²¹ Francis Fukuyama, "The End of History?," *he National Interest*, Summer 1989, 3-18.

²² Marx, 33.

and private markets, and specifically, the markets of capitalism. Capitalist markets are defended on the ground of efficiency, prosperity, and self-interest, so it seems that it requires a different moral psychology than that required by human emancipation. As we will see very soon in Chapter I, the moral foundations of markets turn out to be something else.

This paper is the reflection of the ways to realize human emancipation and the rights of citizen by eliminating alienation from the species-being for every citizen. The analysis is divided into two parts. The first part is called “the moral foundations of markets.” This part is not the discussion of some ethical issues in specific markets like the markets of kidneys or prostitution. Rather, it is a general philosophical inquiry regarding the foundational ideas on market transactions, distributions, and their relations with the civil, economic, and political community. After uncovering some moral ideals and the deviation of such ideals in capitalist markets, the paper shall assess some potential ideas and specify and formulate the “public ideology of human emancipation.” “Public ideology” in this paper means the ideology that represents the real public interests rather than only the interests of the ruling class. As we shall see in Chapter I, Marx argues that the ruling ideology under capitalism, regardless of regime types, is hypocrisy because it forces the ruling class to represent its egoistic interests as the public interests. It shall then respond to some potential critiques from pro-market camp and illustrate why this ideology can indeed eliminate alienation from species-being and is thus indeed the public ideology of human emancipation. The public ideology or public principle shall function as the guideline to assess necessary reforms. Based on such a principle, the second part is the part of the political foundations of markets, which aims to formulate the components of a Social Economy, which is the social system that corresponds to the public ideology of human emancipation. Part II shall assess the components of the Social Economy, namely, socioeconomic structures and legal

structures, which can function together and mutually complement each other to make the Social Economy conform the public ideology. Informed by empirical research, this part examines how these socioeconomic structures function and fit. Moreover, it also involves normative discussions about the legal structure on the specific ways of constitutionalizing the rights of citizens that reorient the relations among rights, thus eliminating the ideological hypocrisy and making democracy work for human emancipation. It should be clarified that for the flow of the paper, the normative parts of the paper may use the first person, and the rest uses the third person.

It might be argued that the human emancipation requires the rights of citizen in many spheres in civil society other than markets such as family and religion. I agree on this point, but I should honestly admit my lack of competence to do due justice to these areas properly in this paper. Nevertheless, markets are probably one of the most important aspects in civil society nowadays for the problems mentioned above. Therefore, if it is possible to act as species-being and exercise the rights of citizen in markets, then society will solve the most important parts of the problem on the road to human emancipation.

I shall further explain the goal of this paper in case of any misunderstanding. Although Marx's distinction between the rights of man and the rights of citizen and between political emancipation and human emancipation is arguably his critique to liberalism, the approach in this paper particularly in Part I shall not be viewed as an entirely Marxist approach. While I think we should take Marx's ideas should be taken very seriously in terms of both his critique to capitalism and his general, if not specific, solutions, I think liberalism can respond to Marx's critique with some modifications to realize human emancipation. Marx's solution and liberal solution differ significantly in the area of distributive justice. Marx thinks that communism with superabundance is necessary to destroy the hypocrisy of ruling ideology and realize the true

rights of citizen. Under a Marxist framework, engaging in theoretical and political labor to formulate a true public ideology is unnecessary because 1. such an ideology is either impossible cannot be realized in capitalist society; 2. transcending capitalism needs at least some relative abundance or “a great increase in productive power,” which the liberal framework does not share. This abundance renders the liberal formulation of the public ideology unnecessary, except for “From each according to his ability, to each according to his needs,” which is the ideology of communism.²³ On the other hand, liberalism, especially Kantian and Rawlsian liberalism, presupposes some characteristics of human nature as rational and reasonable beings, depart from such characteristics, and incorporate some conditions such as scarcity in the economy, which Marx’s solutions do not share. My approach can be taken as a generally liberal approach that incorporates some Marxist components. Choosing a Marxist framework needs to analyze superabundance very deeply, but it is unclear whether it can be realized, although there might be some possibilities, as we shall see in Chapter I. Even though it can be realized, it is still not advisable to do nothing now but wait. In this regard, working on the roadmap of liberalism given markets and trying to see whether it can lead us to human emancipation and the rights of citizen is a more attractive and realistic approach.

Furthermore, many traditions in liberalism seem to share the same aspiration. For instance, some argue that the fourth formula in Kant’s ethical theory is the formula of kingdom of end, which means that every rational being conforms to the single self-giving moral law that coherently flows from the shared reason of mankind and also binds other rational wills to do the same in a community, in which each member as rational beings possess the equal status

²³ Marx and Engels, *German Ideology*, 161.

of self-legislator and must be treated as an end in itself.²⁴ As Marx sees it, under capitalism that enshrines the rights of man, citizens “treats other men as means, degrades himself to the role of a mere means.” Therefore, capitalism and the rights of man are at variance with the kingdom of ends according to Kantian liberalism. In this regard, liberals or at least Kantians can share some Marxist aspirations to realize their ideal of the kingdom of ends, even though the ultimate solutions might differ. Like Marx, Isaiah Berlin defines negative liberty as the liberty from constraints and interference set by others and positive liberty as the ability and opportunity to pursue an end that one sets for oneself.²⁵ While Berlin criticizes the attempts to use a kind of perverted positive liberty such as the true self, the noumenal self, and the abstract Rousseauian general will both in theory and history to suppress negative liberty, it can also be argued that some perverted forms of negative liberty can be used to suppress positive liberty, or the preoccupation with non-interference can lead to very thin obligation or even complete disregard to other fellow members in a community.²⁶ Moreover, John Rawls formulates his justice as fairness as a public ideology, which he thinks represents for the general interests rather than the interests of the ruling class, as a response to Marx’s critique to liberalism.²⁷ Although I think Rawls’s response is not entirely successful, and I will explain more specifically in Chapter II, his ingenious attempt also supports the point that many liberals implicitly share the same Marxist

²⁴ Immanuel Kant, *Groundwork of Metaphysics of Morals*, translated by Mary Gregor, Cambridge, England: Cambridge University Press, 4:433, 4: 439, 40-46; and Robert, Johnson and Cureton, Adam, "Kant's Moral Philosophy", *The Stanford Encyclopedia of Philosophy* (Spring 2019 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2019/entries/kant-moral/>>.

²⁵ Isaiah Berlin, "Two Concepts of Liberty" in *The Proper Study of Mankind: An Anthology of Essays*, New York, NY: Farrar, Strauss and Giroux, 1998, 191-243.

²⁶ Joshua Cherniss and Henry Hardy, "Isaiah Berlin", *The Stanford Encyclopedia of Philosophy* (Spring 2020 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2020/entries/berlin/>>.

²⁷ John Rawls, *Justice as Fairness: A Restatement*, Cambridge, MA: Harvard University Press, 2001, 176-179.

ambition of human emancipation. Given Marx's critique and these liberal attempts, I think it is not helpful to restrict my project to a single school of thought, whether it is Marxist or liberal.

In Part I, chapter I first lays out the background of issues, namely as Adam Smith sees it, what is the real virtue of markets (not pure self-interest), why such a virtue cannot overcome the problem of alienation in capitalism, as Marx harshly criticizes, and why alienation is objective and inevitable in capitalism because of exploitation. Chapter I also discusses in detail the reason for not choosing an entirely Marx's framework and also the necessity to formulate a real public ideology for the public interests and rather than for the interests of the ruling class. Chapter II attempts to formulate such a public ideology. The shortest conclusion regarding the exact form of this ideology is a combination between John Rawls's justice as fairness and Ronald Dworkin's equality of resources, with the injection of economic liberty as an equally important primary good. It will start with Rawls and examine what Rawls misses, namely insufficient commitment to equality, and how to step beyond. Chapter III is a chapter that responds to an almost necessary anticipated attack by the pro-market camp, especially libertarians, arguing that self-ownership, libertarians' supreme idea, undermines its own claim in capitalism. Namely, according to self-ownership, capitalist markets are partial slavery. More importantly, Chapter III compares different understanding of "exploitation and thus alienation" from a libertarian and Marxist perspective, shows the areas of convergence and divergence, and ultimately demonstrates that according to Marx's conception of exploitation and alienation, the public ideology can indeed eliminate this type of alienation and is thus indeed a rightful candidate of the real public ideology.

After the theoretical labor of Part I, Part II engages in another kind of labor that is both normative and empirical. It aims to formulate a way to organize a Social Economy, which as a

social system corresponds to the public ideology and realizes the social empowerment over economy. It examines and proposes a set of legal and socioeconomic structures as the necessary components of this Social Economy that corresponds the public ideology, showing that it is only possible to formulate such a public ideology but also act upon it and make reality conform to the ideal of human emancipation. These structures collectively aim to achieve citizens' "social empowerment over economy" from both private owners of productive resources and the regulations imposed by unilateral conception of the state only rather than citizens as a whole.

Part II, Chapter IV starts with socioeconomic rights and welfare-state as essential parts of legal and socioeconomic structures respectively, demonstrates how to constitutionalize welfare or socioeconomic rights, and examines the limit of welfare-state, thus justifying the necessity to transcend capitalism. In anticipation of questions "what might lie even beyond welfare states," I shall examine, justify, and propose different socioeconomic structures in Chapter V and Chapter VI. These socioeconomic structures include workplace democracy and property-owning democracy (liberal (democratic) market socialism).²⁸ Property-owning democracy or liberal socialism features neo-agrarian reform that consists of universal capital endowment, basic income, social wealth funds, and probably some versions of market socialism. After laying out the exact forms of these socioeconomic structures and demonstrating the exact ways to implement them, Chapter VII adds another key component to the legal structure by justifying that modern constitutionalism should be an anti-oligarchic constitution that views general economic equality and economic opportunity as its necessary prerequisite. Moreover, in chapter VII, I propose a bold constitutional amendment that constitutionalizes such equality and transforms the rights of man into the rights of citizens, thus providing a constitutional guarantee

²⁸ I shall explain in Chapter VI why I use the two terms interchangeably.

for human emancipation. These legal and socioeconomic structures shall function together, mutually complement each other, and constitute the Social Economy that speaks to the ideal of human emancipation.

Let's begin with the first part of the moral foundations of markets, by starting with the pioneer of markets Adam Smith.

Part I: The Moral Foundations of Markets

Chapter I. Is Free Market Really Free?

“It is true that labour produces for the rich wonderful things-but for the worker it produces privation. It produces palaces-but for the worker, hovels. It produces beauty-but for the worker, deformity. It replaces labour by machines-but some of the workers it throws back to a barbarous type of labour, and the other workers it turns into machines. It produces intelligence-but for the worker idiocy, cretinism.”

- Karl Marx, Economic and Philosophic Manuscripts of 1844, 1844.

I. Adam Smith’s Ideal

Perhaps unlike the popular interpretation, Adam Smith justifies markets on the ground of not only self-interest, but also mutual affirmation of people’s legitimate interests and dignity.

Smith argues that each person should live and interact with others independently from the arbitrary will of others. They should affirm both themselves and others with equal status and set meaningful ends for themselves in their lives.²⁹ A just and ideal society is the one that everyone lives in such a way. To realize such a ideal, a method is necessary to remove constraints. Smith regards institutions like guilds, theocracy, and slavery as hierarchical structures where free interaction was nonexistent or meagre, and many people were subject to others’ arbitrary wills. While it is possible for those who govern the structure to morally treat the governed, this potentially benevolent treatment does not justify the structure. Those at the top have rights to withdraw their benevolence if these subordinating structures are in place. The prospect of those at the bottom depends on the governing, arbitrary, despite potentially benevolent will.³⁰ This

²⁹Elizabeth Anderson. *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)*. (Princeton. NJ: Princeton University Press, 2017), 34.

³⁰ Ibid.

situation is not different from a beggar asking aids from a passerby because the former's benign treatment is not guaranteed and conditioned on the arbitrary benevolent will of the latter.³¹

Smith argues that markets can enable people to interact as equals and pursue their ends independently. In a market interaction, people not only affirm their interests by engaging in activities they choose for themselves, they also affirm others' interests and activities. Smith argues that indeed we are primarily driven by our self-interest, but every successful market transaction presupposes the sympathy toward and mutual affirmation of each party's legitimate interest, and in pursuing one's self-interest, one should not ruin others' from pursuing theirs.³² Otherwise, self-interest without sympathy and affirmation will bring chaos to markets, or even a state of war in Hobbes' account. To make markets function, people should have the virtue of justice, meaning that they should not let their self-interest unconstrained and hurt others from pursuing their legitimate interest.³³ If people behave unjustly, society needs to punish them and enforce justice. Smith also points out another virtue of benevolence, or the virtue to actively help others, which is praiseworthy but should not be enforced because it should be a voluntary virtue.³⁴ Therefore, markets function only if people have the virtue of justice.

As every transaction or interaction takes place thanks to mutual sympathy and affirmation, and markets are constituted by countless interaction, people mutually affirm themselves and others within markets. Once everyone participates in markets, everyone can pursue their legitimate interests and ends without any external interference, and everyone is affirmed from doing so. In this regard, Smith thinks that markets realize the ideal of a just

³¹ Ibid.

³² Adam Smith. "Section II Of Justice and Beneficence" in *The Theory of Moral Sentiments* (Kindle Active TOC). Uplifting Publications. Kindle Edition. 86.

³³ Ibid.

³⁴ Ibid.

society constituted by free beings. Perhaps this should be the way to interpret Smith's famous lines mentioned in the *Wealth of Nations*, which is often construed for advocating self-interests only: "it is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity, but to their self-love, and never talk to them of our own necessities, but of their advantages."³⁵

II. Karl Marx's Warning - The Deprivation of Human Essence

Adam Smith, the pioneer of markets, argues that the foundational incentive of markets is not selfish interest but mutual recognition of interests as the other-regarding incentive. He thinks that it would be ideal if people have an extended beneficence toward other members in community in market interactions, although he seems to think that to truly bring it about depends on people's moral epiphany, as such beneficence cannot be forced. Nevertheless, although he unveils the secret of division of labor behind more productivity, he seems also to worry about its negative effect on people's free development. In that regard, Karl Marx shares similar thought but takes it very radically and seriously

Marx has a similar ideal regarding personal freedom and dignity, but he would argue that this ideal is undermined in capitalist markets. To Marx, the reason that humans are humans is that they are species-beings. Like animals, humans have the consciousness of themselves, but unlike animals, humans are also aware of society, social relations, and humanity as the whole.³⁶ As humans are essentially social animals, one's self-awareness is conditioned upon the context and his or her place within society and humanity. Because individuals' consciousness is conditioned upon society and humanity, their self-affirming and self-actualizing activities should

³⁵ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, University Of Chicago Press, Kindle Edition. 10.

³⁶ Allen Wood. "The Human Essence" and "Alienation" in *Karl Marx*. (New York. NY: Routledge, the Taylor & Francis Group). 21.

constitute the actualization of species-being or the communal essence. Namely, people should regard their fellow human beings as the object or goal and thus affirm both themselves and others as species-beings (21).

Marx also argues that human essence also consists in the fact that we work through our labor. Humans need objects both for their physical subsistence and healthy, meaningful life, and humans have the essential, objective powers as species-beings that can and should be exercised. The actualization of the objective power is through one's labor and the product of labor, which is the "the objectification of man's species life."³⁷ As people produce, they "objectify" outside things through their labor and actualize their objective power as the essential power. As labor should be the objectification of people's species-beings, people should produce both for themselves and other fellow human beings, their community, and thus humanity as the "object" or goal. In this sense, one actualizes the objective power as species-being because s/he not only has a meaningful, individual life to pursue, but also makes his own species the goal of his or her life. They produce both for themselves and the species even if their physical needs are met; thus humans are free only if they produce and exercise their essential power as species-beings. As people produce and objectify the society and humanity, they also have a conception of them and treat them as ends worth pursuing for themselves.

Marx's account of human's essential, objective essence as species is similar with Smith's in the sense that people are also mutually affirming each other in market interactions. On the other hand, Marx adds another requirement for human freedom that Smith does not mention: while people produce and advance their ends for themselves, they should do so by making their

³⁷ Karl Marx and Friedrich Engels. "Economic and Philosophic Manuscripts of 1844," "The German Ideology," and "On the Jewish Question" in *The Marx-Engels Reader*, edited by Robert C. Tucker (New York, NY W. W. Norton & Company, Inc, 1978), 76.

species as an object. People should produce with a conception of the goal of the labor toward the communal good rather than merely egoistic interests for themselves. In this aspect, Smith's mutual affirmation of interests does not necessarily coincide with Marx's species-beings, as the mutual affirmation between two parties may be purely based on self-interests in these two parties without other motives.

In terms of the role of markets, Marx sharply disagrees with Smith and argues that markets inevitably impose alienation on workers. Marx starts his explanation in *Economic and Philosophic Manuscript of 1844* with an antithesis of moral desert under capitalism: "The worker becomes all the poorer the more wealth he produces, the more his production increases in power in power range."³⁸ Marx argues that workers' labor reduces workers to mere commodity and works only for the purpose of capitalists. Namely, under capitalist mode of production, capitalists are the master, and workers are the slave. Workers work for the capitalist's purpose only without enjoying what they deserve or what they produce. That's why Marx says that "with the *increasing* value of the world of things proceeds in direct proportion the *devaluation* of the world of men."³⁹ This lordship-bondage relation is arguably the starting point that Marx points out under the capitalist mode of production, in which workers cannot realize their essence under this. Marx calls the deprivation of human essence "alienation," and he argues that alienation is inevitable in capitalist markets deducing workers' alienation from product, production, and species being.

³⁸ Karl Marx and Friedrich Engels. "Economic and Philosophic Manuscripts of 1844," in *The Marx-Engels Reader*, edited by Robert C. Tucker (New York, NY W. W. Norton & Company, Inc, 1978), 71.

³⁹ Ibid., As I interpret Marx's argument, I tend to view this beginning as the source or premise of alienation. Although it intuitively corresponds to reality, in both the Industrial Revolution and today's world as shown in rising inequality and concentration of wealth in the hands of a few. I personally think that it still needs an underpinning to convince someone like Hegel, who might not accept this premise given that Hegel thinks that Prussia is the end of history, and everything is or will soon be fine. I personally think that Marx's theory of surplus value based on solid math elaborated in his *Capital* can be an underpinning of this premise.

The first type of alienation is alienation from product or “object bondage.”⁴⁰ Under capitalist mode of production, the product of labor does not have the self-affirming or objectifying power. The product stands like an external existence that does not belong to workers but is appropriated by capitalists, so workers are deprived of their affirming, objectifying, transforming, and essential powers. For example, the product of making a tiny part of a machine does not seem “objectifying” and meaningful at all. In this sense, the product is something “alien, a power independent of the producer” that works as something “hostile and alien” against himself.⁴¹

Marx further deduces that workers are also alienated from their acts of production. Acts of production or the productive process results in the final product. As workers are alienated from product as “the summary of the act of production,” workers are also alienated from the acts of production.⁴² Marx regards this alienation as forced labor. In terms of specific manifestation, workers do not experience human essence as their work “does not affirm but denies [themselves]”. During work, workers “do not develop freely his physical and mental energy but mortifies his body and ruins his mind.”⁴³ Workers can only feel their true character when outside their work. In this regard, acts of production deny human essence and only work as means to satisfy human’s basic needs, or in its crudest form, bare physical subsistence, but workers have to produce because they do not have voluntary choice.⁴⁴ However, if workers are liberated from the constraint, they would not “choose” this alienating work but really choose work that affirms

⁴⁰ Marx, 72.

⁴¹ Ibid.

⁴² Ibid., 73.

⁴³ Ibid., 74.

⁴⁴ Ibid., 74.

their objectifying power as a “life activity,” which truly makes object correspond to workers’ concept in’s term.

Marx finally deduces the last type of alienation as the alienation from workers’ species-being, arguably the most significant form of alienation. Human essence implies one’s exercise of one’s labor as free, objectifying power that transforms objects in accordance with free conception in the productive process. As workers are alienated from acts of production, they are also alienated from their species-being.⁴⁵ Marx says that one’s labor should be “(1) his direct means of life, and (2) as the instrument of his life-activity.”⁴⁶ In this case, subject transforms object and makes the outside object conform to concept in the head. Nevertheless, this is impossible under the capitalist mode of production. Under the capitalist mode of production, workers as the slave are coerced to under the “dominion” and “yoke” of another man (capitalist) as the master.⁴⁷ Such dominion of one cannot result in the slave’s control of his true self production and the product. As workers are alienated in this sense, their life exists only as means to maintain their physical existence merely, and in its worst form, as mere means to maintain physical existence. In this regard, production is forced labor rather than as one’s life activity or free activity. Animals produce only to satisfy their basic needs, but human essence requires that people produce even their physical needs are met, but as people produce only for basic needs, they are alienated from their human essence as species being and reduced to bare animal functions only.⁴⁸

Marx also believes that alienation cannot be conquered within markets. Marx holds the view of historical materialism that forces of production determine social relations, and social

⁴⁵ Ibid., 75.

⁴⁶ Ibid.

⁴⁷ Ibid., 78.

⁴⁸ Ibid., 75.

relations determine ruling ideas and consciousness. As people produce, their production determines their social relations with each other, for example, the relations between workers and owners of production. Their production increases the productive forces, which causes and intensifies the division of labor as a productive relation, which necessarily leads to the division of “material and mental labor.” The ruling class has the control over the means of production, including the means of “mental production (172).” As a result, the ruling ideology that works toward particular interests of the ruling class, which can never coincide with the general interest (161). The ruling ideology may or may not appeals to the public interest, but Marx argues that such ideology can never be realized but only reinforces the oppression of the proletariats by the bourgeoisie. The bourgeoisie imposes their ideas and ideologies over the entire society and thus stabilize and enforce the existing mode of production, social relations, and people’s consciousness (161). The expansion of productive forces necessarily leads to a further division of labor, and division of labor causes alienation from product, labor, and species beings. Moreover, ruling ideologies consolidate only the interest of the ruling class and reinforce the existing mode of production, social relations, and division of labor. Therefore, alienation is the necessary result and can never be eliminated in capitalist markets. Individuals not only lack control over their conditions but also are destined to live in the contradiction between particular interests and general interest and between their alienated selves and their species-beings.

III. The Dialectics of Capital and the Scientific Basis of Alienation

While Marx’s theory of historical materialism definitely deserves more inquiry, I will not venture to do such a large scale of philosophical and empirical research on the entire human history. For the sake of this paper. I will mainly discuss alienation more deeply by using coerced exploitation to ground alienation in a more scientific sense, showing that alienation is objective and inevitable in capitalism, perhaps contrary to some people’s intuition.

It might be argued that alienation is largely mitigated, if not completely eradicated, in the capitalist mode of production. Some so-called counterexamples of alienations might include the following. Nowadays work is more humane with better working conditions and “reasonable” working hours. Workers are also better off because they become richer, and their standard of living is better much better compared with the standard in Marx’s time. More importantly, some may say that alienation nowadays is more subjective rather than objective. If alienation from species beings occurs because human engage in works that are not self-actualizing, one can argue that alienation can be eliminated if one finds a meaningful job. The needle manufacturing process in Adam Smith’s conception is very objectively alienating because no one would do the monotonous and repeating work detrimental to his or her psychological health, but it might be argued that the same cannot be true for some jobs in contemporary capitalist markets. For example, management consulting or investment banking to some people is not meaningful, but for others it is. Whether a job is meaningful or not depends on the specific ends that one set for himself/herself, and those ends cannot be the same for everyone. Whether a job is meaningful is subjective and not objective. Therefore, whether a certain job is alienating is also subjective and not objective.

I would argue that whether a job has meaning does not fully constitute alienation. Alienation is about not only about *what* the work is but also *how* people work. Moreover, regardless of the extent of alienation in today’s world, alienation is inevitable and can never be eliminated in capitalist markets. In fact, alienation cannot be examined on surface. As Marx deduces the alienation from the species being from the alienation from acts of production from the alienation from product, it is worth dissecting at alienation from products in greater detail. Marx says that alienation happens because “the product stands like an external existence that

does not belong to workers but are appropriated by capitalists.”⁴⁹ If this appropriation can be scientifically grounded rather than just by empirical observations, then alienation would be objective and inevitable. In this sense, it is necessary to analyze exploitation as one necessary, if not the only, contributing factor to alienation.

Marx uses his theory of surplus value to explain capitalist exploitation. Before addressing potential critiques and explaining my argument, it is necessary to summarize this theory in a nutshell. Capitalist production happens because of the combination between the means of production and workers who participate in production. The essential nature of capitalist production is that capitalist use their commodities to exchange money, which they can use to get commodities they want (C-M-C).⁵⁰ Meanwhile, capitalists use money to get the commodity in order to produce, which capitalists hope to generate more money with greater value than the amount money he initially has (M-C-M’).⁵¹ As capitalist want to produce, they need to pay the value of the means of production⁵² and workers’ labor power, or the energy and faculties they contribute to production. Marx calls the value of the means of production “constant capital” because their fixed amount means that their transformation into the product will bring their fixed value into the product, so the value they can contribute on a per unit basis is fixed.⁵³ The value of or contributed by workers, on the other hand, is variable because socially necessary labor time can vary.⁵⁴ Moreover, as capitalist want to get a new value according to M-C-M’, he has to pay laborers value less than the value of their labor power.⁵⁵ In this course, a new type of value called

⁴⁹ Marx, *Economic and Philosophic Manuscripts of 1844*, 71-72.

⁵⁰ Karl Marx, *Capital: A Critique of Political Economy*, translated by Ben Fowkes, Penguin Books, originally published 1867, 1990, 248-257

⁵¹ 258-269.

⁵² Against depreciation, amortization

⁵³ Marx, 309-319.

⁵⁴ This concept will be explained more fully.

⁵⁵ Marx, 293-306.

surplus value arises in workers' production, and this value from products is owned by the capitalist.⁵⁶ Surplus value can transform into capital (e.g. reinvestment) and thus continue the motion forward.⁵⁷ In other words, workers spend some of their working time to produce themselves and their labor power and other time to produce surplus value for the capitalist. Therefore, exploitation occurs, and the rate of exploitation is the ratio between surplus value and variable capital (surplus value/variable capital).⁵⁸ To enlarge surplus value and thus profit, either the capitalist extract more absolute surplus value by paying workers the same or making them work longer, or the capitalist generate more relative surplus value by investing in more productive technology and making workers work for the same time.⁵⁹

I will not comment too much about absolute and relative surplus value and how they change over time.⁶⁰ Instead, I'll address some misunderstandings and add normative comments on exploitations.

Economists tend to dismiss this theory too quickly. As some understand it, they tend to view it based upon the labor theory of value, which says that all values come from labor. Economists would say that the labor theory of value is false because as a supply-side theory, it does not consider the demand side.⁶¹ For capitalist apologists, they may attack the labor theory of value and argue that because it is a false theory based on the false labor theory of value, capitalist exploitation does not exist. As capitalist exploitation does not exist, even if alienation exists, it is a subjective feeling rather than an objective thing, so capitalists markets need no reform or only marginal reform. I would call it a misunderstanding of what Marx tries to explain, and this

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid., 320-339.

⁵⁹ Ibid. 340-344, 429-438.

⁶⁰ More empirical research needed

⁶¹ Robert P. Murphy, "Problems with the Cost Theory of Value," *The Mises Institute*, May 23, 2011, <https://mises.org/library/problems-cost-theory-value>, accessed May 11, 2020

misunderstanding by economists, capitalist apologists, and perhaps more people can be formulated as an argument below:

- (1) Only laborers create all values.
- (2) Value determines equilibrium price.
- (3) The amount of labor determines equilibrium price.
- (4) Surplus value or is a type of value.
- (5) Surplus value determines what comes after price: profit
- (6) Surplus value is created by laborers.
- (7) Laborers create and thus determine profit
- (8) Capitalists own profit.
- (9) Capitalists own what laborers create and determine
- (10) Capitalists own something created by laborers, who receive only the values of their labor power.
- (11) Therefore, capitalists exploit workers.⁶²

What many economists or capitalist apologists' comment is the following. First and foremost, they tend to say that (1) is incorrect because of the lack of consideration of many factors. Essentially, value is created by demand and supply. Second, some of them tend to argue against Marx's attempt to equate value with price and argue that (2) and (3) is wrong, and therefore (5), (6), (7), (9), (10), and (11) are all wrong. Since value and price are not the same, and thus price is not necessarily proportional to the amount of labor, and so are profit and surplus

⁶² Inspired by G. A. Cohen's analysis on exploitation, although he tries to make a different point, see G. A. Cohen, "The Labor Theory of Value and the Concept of Exploitation," *Philosophy & Public Affairs* 8, no. 4 (1979): 338-60, accessed May 11, 2020. www.jstor.org/stable/2265068.

value.⁶³ Perhaps their message is simple: Marx is wrong, so exploitation does not exist.

Alienation might exist, but that is subjective, not objective. Therefore, capitalism needs either zero reform or only marginal reform.

A minor but relevant shall be addressed before addressing other critiques mentioned in the argument. Although not mentioned in this argument, their other common oppositions include the following: labor is not the only factor of production. This objection is relatively is easy to defeat, as Marx's "variable capital" already takes that into account. The value of these that these non-labor and non-entrepreneurial factors of productions are fixed because of the fixed amount, so the transformation of these factors of production into the final product will eventually preserve their fixed value.⁶⁴ The transformation preserves the fixed value and does not create any new value.⁶⁵ Therefore, these factors of production do not contribute to the surplus value, so this objection is irrelevant to our discussion about "exploitation and thus alienation."

Before addressing these critiques, I shall point out the fundamental mistake of such views: they do not engage with Marx's dialectical method. The methods of *Capital* is not the positivist methods of social science. Rather, Marx uses his material dialectics to study capitalism. As Marx sees it, "the ideal is nothing but the material world reflected in the mind of man, and translated into forms of thought."⁶⁶ What he aims to accomplish in *Capital* is to reproduce capitalism as a total and concrete structure into thoughts.⁶⁷ Specifically, he aims to reproduce the various appearances and their forms as mutually opposing, contradicting,⁶⁸ and unfolding stages that constitute the capitalist society, into the abstract economic category ineconomist's to

⁶³ Murphy.

⁶⁴ Marx, 309-319.

⁶⁵ Ibid.

⁶⁶ Ibid. 102

⁶⁷ Earnest Mandel, "Introduction," in Marx, *ibid.*, 18.

⁶⁸ Not a logical contradiction, as I will soon explain

thoughts that correspond to these stages.⁶⁹ What Marx tries to reveal is the law that drives history and the laws that govern the mutual motion between capitalism and its bourgeoisie society.⁷⁰ The use of dialectics is perhaps one key if not the only reason that Marx never fully finishes his *Capital* because of the perpetual movement within capitalism.⁷¹

Such methods are fundamentally different from positivist methods used by social sciences including economics. Using positivist methods to examine dialectical methods is flawed because doing so only sees each stage either as appearances rather as forms, or as pieces but not totality, or as static phenomena but not unfolding and long-run movement.⁷² When viewed in this way, positivist methods will view some contradiction between economic category and economic phenomena, and therefore positivist methods require a logical negation of the economic category. Nevertheless, such contradictions manifest the essential nature of the dialectical method, which shall demand not logical determination but “determinate negation” to resolve such a contradiction.⁷³ Determinate negation is the way to deal with a movement of contradictory elements that preserves what it negates and results in a structure that stabilizes this structure that the contradictory movement builds upon.⁷⁴ I shall illustrate this point more vividly when I respond to economists’ critique regarding value, price, and the transformation problem of surplus value into profit. While determinate negation does not mean that the lower stage is less real than the higher one, each stage is real, but their opposing nature constitutes the unfolding structure that should be viewed as a totality. To put it simply, if economists do not use dialectics against dialectics, then their critiques will most likely miss the point.

⁶⁹ Ibid.,

⁷⁰ Wood, 222-226,

⁷¹ Ibid.

⁷² Mandel, 23-25.

⁷³ G. W. F. Hegel, *Phenomenology of Spirit*, translated by A. V. Miller, Oxford, New York, Toronto, Melbourne, 1977, 51.

⁷⁴ Peter Kalkavage, *The Logic Of Desire*, 15.

Now I shall illustrate what economists and capitalist apologists miss in some stages they focus on. First, regarding the labor theory of value, Marx's theory of exploitation can be and was originally constructed without using the labor theory of value based on the actual and concrete as the foundation. Instead, he uses his special labor theory of value based on abstract labor and socially necessary labor time, and this special version of the labor theory of value as a seemingly supply-side theory actually presupposes demand.⁷⁵ There are actually two doctrines of the labor theory of value. *The popular doctrine* says that the actual labor congealed in products create value, whereas *the strict doctrine* says that "value is determined by socially necessary labor time."⁷⁶

I shall illustrate that why the strict doctrine actually presupposes demand and does not contradict the interaction between demand and supply at all.

According to Marx, socially necessary labor time determines the value of a product. Socially necessary labor time is the time of an average worker with average productivity to produce a given commodity.⁷⁷ It might be argued that the common standard should be priced by price and demand. Under the framework of economy, price can be an underlying standard. Nevertheless, it is important to recognize that although Marx incorporates price at later stages, he starts by measuring value using the amount of working time rather than monetary terms. Marx uses a different framework, which does not aim to produce a theory of price or just price.⁷⁸ Rather, it is an abstract model to synthesize commodity exchanges.

Moreover, this framework does not contradict demand, supply, and the deviation of prices from values of commodities. In fact, it could be argued that socially necessary labor time

⁷⁵ Marx, 129.

⁷⁶ Cohen, 346.

⁷⁷ Marx, 129.

⁷⁸ Wood, 230-233.

is the time necessary to create a given commodity recognized by demand in market interaction. Marx in fact presupposes that a demand is there, and there must be something that creates goods and services that have values to satisfy demand, and that thing that creates such goods and services is socially necessary labor.⁷⁹ If the labor is socially necessary, it produces a commodity with value. From it follows that if too much labor is expended than the socially necessary level, and only some commodities are sold or satisfy the demand, then only the labor time expended to produce the commodities that are sold or recognized by demand would be socially necessary, and the labor time expended to produce commodities stored in inventory would not be socially necessary. Likewise, if laborers are very inefficient to produce commodities and thus expend a longer time than the socially necessary level to produce commodities, the extra time spent compared with the socially necessary level would not count as socially necessary labor time. In short, socially necessary labor time is not the actual labor expenditure but an abstract amount expended by a hypothetical worker with average productivity. Occasionally, Marx hints at such views consistent with socially necessary labor time. When discussing commodity, he states “nothing can be a value without being an object of utility. If the thing is useless, so is the labour contained in it; the labour does not count as labour, and therefore creates no value.”⁸⁰ When discussing the process of exchange, Marx also says that “”For the labour expended on them only counts in so far as it is expended in a form which is useful for others. However, only the act of exchange can prove whether that labour is useful for others, and its product consequently capable of satisfying the needs of others.”⁸¹ In this regard, as Marx also presupposes the demand side in

⁷⁹ Ibid., 129

⁸⁰ Ibid.

⁸¹ Ibid., 179.

the definition of socially necessary labor, he arguably can agree on what Smith says about mutual recognition of interests in market interactions.

After determining the concept of socially necessary labor time, a new argument of exploitation can be formulated as follows.

- (1) Socially necessary labor time determines value
- (2) Surplus value is a type of value.
- (3) Surplus value arises from socially necessary labor time, which is expended by laborers only.
- (4) Capitalists own surplus value.
- (5) Capitalists own something created by laborer, who receive values less than they created.
- (6) Therefore, capitalists exploit laborers.

This is a temporary argument, which can already prove exploitation. Nevertheless, to demonstrate it clearer using terms less abstract terms of surplus value, and a complete argument shall be given, which can be formulated after addressing economists' other critiques. Now I shall address economists' and capitalist apologists' other objections. The anti-Marxian argument regarding price and value shows vividly the failure to use positivist method to critique dialectical method. Marx agrees that price changes for various reasons, so it does not always converge from with value. Nevertheless, he starts with the equivalence between value and price to make things easier and illustrate how surplus value is possible.⁸² Interestingly, when viewed in this way, Marx's labor theory of value and theory of surplus value seems to diverge from price. As price changes for various reasons not related to socially necessary labor time, profit also changes in a

⁸² Ibid., 188-198

way that seems to be incongruent with socially necessary labor time. This is where economists' and capitalist apologists argue that this incongruence requires the rejection of the labor theory of value, even in Marx's special version.

However, this incongruence is short-term and holds true when everything is held static and appearance. In the long-run, when viewed as a stage in unfolding movement with inner contradictions, price should generally converge with value. For instance, let's say that price change because of an increase in demand. However, supply cannot immediately respond to demand. As a result, a temporary disequilibrium in price will occur. Given the disequilibrium, this increase implies that demand commands labor time more than socially necessary labor time. However, the force of supply will determinately negate its past socially necessary labor time, reorganizes itself, and transforms supply with the new socially necessary labor time. After this dialectical movement, supply and demand will be at equilibrium.⁸³ To put it simply, a disequilibrium between demand and supply happens from time to time, but in the long run, there will be an equilibrium.⁸⁴ Given such dialectical movement, as socially necessary labor time determines value, and value converges with price in the long-run unfolding movement, socially necessary labor time determines value in this long-run unfolding movement. Namely, price should fluctuate against socially necessary labor time.

Similarly, economists' and capitalist apologists' critique also misses the mark in terms of the transformational problem. As there is no way to mathematically express profit in terms of socially necessary labor time, economists and capitalist apologists argue that perhaps even Marx's special labor theory of value should be rejected.⁸⁵ Nevertheless, this simple response also

⁸³ "Law of Value 10: Price and Value," *Kapitalism101*, December 23, 2012, <https://kapitalism101.wordpress.com/2012/12/23/law-of-value-10-price-and-value/>.

⁸⁴ Ibid.

⁸⁵ Murphy.

targets the piece rather than totality and focuses on the static appearance rather than the unfolding movement. The transformational problem occurs because surplus value can be transferred across firms and industries, as capitalists as profit-maximizers have interests in firms and industries with a higher profit margin. Such changes occur not only through investment but also changes in price.⁸⁶ This is a new stage in the unfolding capitalist structure that presents a new force that affects price and thus profit. Nevertheless, when the structure of capitalism is viewed as an unfolding totality, such a force opposes the force of socially necessary labor time but not logically deny socially necessary labor time. For instance, the movement of surplus value across firms and industries may come to a point where surplus value and profit converge, albeit very temporarily and very restrictive in a few firms or industries because of the constant motion.⁸⁷ When this happens, there is full congruence between surplus value and profit, and the force of the socially necessary labor time will be manifest. To sum up, everything should be viewed in the long run, and the deviation between categories and reality does not entail the logical negation of categories.

In fact, what Marx concludes using his material dialectics has been confirmed by other methods. For instance, economists such as John Roemer have developed models, which demonstrate that capitalist exploitation can be proved without using the model of labor theory of value.⁸⁸ Physicists may side with Marx and disagree with economists, as studies that apply thermodynamics to long-term changes in price confirm the Marxian dialectics price fluctuates around the socially necessary labor time.⁸⁹ Moreover, as Marx focuses on the long-term

⁸⁶ Law of Value 10: Price and Value.

⁸⁷ Ibid.

⁸⁸ See John Roemer, chapter chapters 2, 5 and 7 in *Free to Lose: An Introduction to Marxist Economic Philosophy*, Cambridge, MA: Harvard University Press, 1988.

⁸⁹ Paul Cockshott and David Zachariah, *Arguments for Market Socialism*, lulu.com; null edition, 147.

development of capitalism, his theory has very powerful predictive power than we may initially realize. Despite economists' emphasis on some secondary "impurities" such as the prediction that the long-term rate of profit is destined to fall, or the immiseration of the working class, consider other major long-run predictions that Marx gets to using his dialectics: "the laws of accumulation of capital [into the hands of a few], stepped-up technological progress, accelerated increase in the productivity and intensity of labour, growing concentration and centralization of capital, transformation of the great majority of economically active people into sellers of labour-power, periodically recurrent recessions, inevitable class struggle between Capital and Labour, and increasing revolutionary attempts to overthrow capitalism."⁹⁰

After responding to economists' common critiques, I can finally give the argument of exploitation, which is the same as the initial argument except for the background condition:

In the long run:

- (1) Only laborers create all values.
- (2) Value determines equilibrium price.
- (3) The amount of labor determines equilibrium price.
- (4) Surplus value or is a type of value.
- (5) Surplus value determines what comes after price: profit
- (6) Surplus value is created by laborers.
- (7) Laborers create and thus determine profit
- (8) Capitalists own profit.
- (9) Capitalists own what laborers create and determine

⁹⁰ Mandel, 23.

(10) Capitalists own something created by laborers, who receive only the values of their labor power.

(11) Therefore, capitalists exploit workers.⁹¹

This argument is arguably valid and sound given the dialectical background. Unless economists and capitalist apologists use dialectics against dialectics to defeat this argument, they cannot succeed in proving that exploitation does not exist.

After proving the inevitability of exploitation, I shall then prove the inevitability of “exploitation and thus alienation” in capitalist society. The argument formulated in this way shows that exploitation is inherent in the capitalist mode of production. Nevertheless, although Marx has normative comments on capitalist exploitation in his *Capital*, this argument alone only demonstrates an empirical fact without any normative judgment. On the one hand, exploitation is just if a person is willingly exploited with full and voluntary consent. Freely and voluntarily doing social work without pay and taking care of the elderly with fixed wage regardless of working time arguably fit exploitation, but this exploitation is just only if people freely and voluntarily expend their labor for such purposes.⁹² On the other hand, the exploitation would be unjust if a person is coerced into this working for the elderly and gets paid a fixed wage. If the capitalist exploitation is just, then capitalist exploitation would not be a sound ground for the inevitability of alienation. To prove such inevitability, it is necessary to prove that the exploitation is made possible by coercion and thus is unjust.

Apologists for capitalists may claim that workers willingly accept the position and wage before they enter into the workplace, and there are many other firms that they can work for.

⁹¹ Inspired by Cohen's xxx article on exploitation

⁹² Wood, 242-246.

Regardless of the systematic disadvantage that workers may have in the bargaining position, this so-called voluntary agreement is not fully voluntary, or it is seemingly voluntary. The existence of numerous firms does not in fact add substantive choices for workers because they are all capitalist firms. What underlies those seemingly many “choice” is only two choices: workers can only work for capitalist firms and get exploited, or they can choose to starve. It is reasonable for workers to choose capitalist firms and sell their labor power. Therefore, they can only choose to work for this or that capitalist firm.⁹³ Workers’ ignorance of this situation or the coincidence to find a firm they really like does not in fact justify the coercive nature of this situation. Not knowing that one is exploited for his or her vulnerability does not excuse that exploiting one’s vulnerability does not exist.⁹⁴ Therefore, exploitation in capitalist markets is coerced and implies that alienation is inherent and inevitable.

Capitalist apologetics may try to refute exploitation and alienation by resorting to the theory of surplus value, arguing that capitalists should own the surplus value because of their risk-taking activities, innovation, and entrepreneurship. It is important to point out that regardless of those types of “capitalist power,” the capitalist power is essentially different from labor power because such power is generally not used in the productive process. Capitalists may set up a ground structure for the firm to operate, but they do not participate in the productive process, at least to a much smaller extent.⁹⁵ Even if they participate, their power over workers in a capitalist firm structure renders them with systematic advantage to extract greater surplus value.⁹⁶ In these

⁹³ G. A. Cohen, "The Structure of Proletarian Unfreedom," *Philosophy & Public Affairs* 12, no. 1 (1983): 4, accessed May 11, 2020. www.jstor.org/stable/2265026.

⁹⁴ Wood, 246-253.

⁹⁵ Ibid.

⁹⁶ Ibid.

aspects, capitalists still own values of what they do not create, or at least they are not fully entitled to such a claim.

Capitalist apologetics may concede that exploitation and alienation are inevitable, but for practicality concern, they may argue that this is necessary. It is often heard that without profit, firms will cease to function, and everyone will suffer. Indeed, other values such as efficiency need to be weighed more thoroughly and will be discussed in the following sections regarding principles of justice, economic liberty, firm structure, and socioeconomic structure to examine the synthesis between those values and the realization of workers' ends in workplace and markets.

This section thus addresses some misunderstandings of the Marxian system and shows that alienation is inherent in capitalist markets because of exploitation that takes advantage of laborers vulnerability. The next section will discuss potential principles and solutions to deal with alienation and realize people's free pursuit of ends in markets.

IV. Species Beings – The Obligatory Standpoint of Each Citizen

Marx is very pessimistic about capitalist markets, arguing that its governing ideologies are deceptive ideologies only for the interest of the ruling class and strengthens alienation rather than eliminates or mitigates it. His solution consists of two steps. The first step is to sufficiently develop productive forces and then institute socialism, which eliminates alienation from exploitation according to Marx.⁹⁷ To do so, proletarians should seize the means of production, establish a common fund, and distribute the value of their work based on people's certificate of work in accordance with their labor.⁹⁸ Thus, although Marx does not explicitly say it, the underlying principle of Socialism is arguably "each according to his work." Nevertheless, Marx

⁹⁷ Marx and Engels, *The German Ideology*, 197-198.

⁹⁸ Marx, *The Critique of the Gotha Program*, 530.

seems also to be troubled by some morally arbitrary factors such as life contingencies and handicap that constrain people from choosing careers and activities that affirm themselves, exercise their labor, and receive their fair reward.⁹⁹ In this sense, although alienation arisen from exploitation understood as the appropriation of surplus value is eliminated, perhaps other forms of alienation still exists because of those morally arbitrary factors. Therefore, Marx says that socialism is the first stage of his final ideal of communism. To realize communism, a society should have superabundance that negates private property where everyone has equal access to goods, resources, and opportunities, sets goals that affirm and objectify themselves and others, reorients themselves to species-being, and thus completely conquers alienation. As Marx says in *Critique of the Gotha Program*, the underlying principle of communism is “from each according to their abilities, to each according to their needs.”¹⁰⁰ In a communist society, “each can become accomplished in any branch he wishes, society regulates the general production and thus makes it possible for me to do one thing today and another tomorrow, to hunt in the morning, fish in the afternoon, rear cattle in the evening, criticise after dinner, just as I have a mind, without ever becoming hunter, fisherman, herdsman or critic.”¹⁰¹ To put it simply, communism completely realizes human potentials, and each individual re-orient themselves to species-beings. To Marx, it is communism that completely realizes human emancipation.

The forms, desirability, and feasibility of various forms of Socialism will be discussed in Part II and specifically in Chapter VI with regard to some versions of market socialism. In this section, I plan to explain why I do not choose an entirely a Marxist framework and choose the liberal approach instead to formulate a real public ideology for the public interests. Put it simply,

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Marx, *The German Ideology*, 160.

even though I take Marx's critique many of his insights to transcend capitalism very seriously, I do not choose an entirely a Marxist framework because first, Marx says surprisingly little about the organization of a post-capitalist society; second, the preconditions of superabundance should not be accepted either for realistic purpose or present purpose, and more importantly, his approach, or at least an interpretation of his approach, turns out to undermine species-being that he seeks to defend.

While Marx does not elaborate on how to realize communism, what I can evaluate is his empirical conditions of superabundance. In this sense, I would say that communism cannot be realized and arguably should not be realized, and its feasibility requires its desirability.

Communism can be realized only if superabundance is realized. Nevertheless, superabundance is arguably not feasible for various reasons. One reason is that the world's resources are limited. It can be argued that superabundance doesn't necessarily have to coincide with unlimited resources, if resources are used to satisfy our needs rather than our wants. Here I do not intend to thoroughly dissect the differences and convergence between needs and wants. What I argue in this section is the following:

- (1) Needs are be expanding;
- (2) The world's resources are both limited and fixed;
- (3) Fixed resources cannot accommodate expanding demands forever;
- (4) Communism can be realized if only if superabundance is realized, and the state and citizens act in accordance with the standpoint of the species-being;
- (5) Therefore, superabundance cannot be achieved, and Communism cannot be realized.

(1) is very easy to comprehend. Our needs today are certainly different from people's needs hundreds of years ago. For example, people hundreds of years ago might mock at the idea of refrigerators, but nowadays refrigerators are parts of very ordinary needs. The more complicated premise is (2). (2) applies to natural resources, but it might be argued that it does not apply to renewable energy and even potential ways to obtain unlimited energy such as controlled nuclear fusion. Today, renewable energy is still not the dominant form of energy. Traditional natural resources like petroleum is still the main source of energy that we rely on, although the industry will eventually decline. These facts show some practical concerns about the sustainability of the way to extract and use energy nowadays. To sustainably generate energy needs other ways such as solar energy and controlled nuclear fusion. Namely, (2) holds true now, but its practical concern of the lack of sustainability presses the urgency to concerted endeavor to use other ways refute (2) in the future.

The issue of superabundance is one key reason to shift to a liberal framework in search of solutions for human emancipation by taking Marx's critiques and insights seriously. The foundational ideas of socialism and communism as Marx sees it are "work" and "need" respectively, and Marx chooses superabundance as the solution to resolve morally arbitrary issue that arises from distribution according to work. In this regard, the precondition of superabundance rules out all needs of distributive justice because there is always enough for everyone. Nevertheless, whether this precondition can be realized is uncertain. Even if an efficient use of solar energy and controlled nuclear fusion is possible, there is no guarantee that they will generate enough energy for our future needs. For instance, future mankind may aspire to transform the dream of interstellar travel into their utmost potential. Even if there is way to superabundance, compared with different schools of liberalism, Marx writes very little in terms

of dissecting “work” and “need.” In these regards, I find it more attractive to adopt a liberal framework in search of solutions in Chapter II and explain how this solution can become a blueprint of actions without superabundance and overcome alienation in capitalism. Part II will propose the Social Economy that corresponds such a public ideology derived from liberalism, and many Marxists may also find this Social Economy an attractive social system. But for the present

Nevertheless, even if a refutation of (2) will be realized in the future, superabundance is not the only precondition of Communism because of (4). If the state uses superabundance from the rulers’ particular, egoistic interests rather than from the public interest of the whole political community, then superabundance will be meaningless. Superabundance is only one precondition to realize Communism. As (4) illustrates, to realize Communism and human emancipation, the state and its citizen have to act from the standpoint of the species beings rather than beings preoccupied with their egoistic interests. Otherwise, superabundance will still be the privilege for those at the top. For example, let’s imagine that in the future, when AI replaces most jobs, and people do not have to be exploited and alienated in their workplace, and they have free time to engage in life activities such as science, arts, literature, sports, and other things that are meaningful to them. For this to be realized, the state has to distribute resources to enjoy their activities in accordance with the public interest and simultaneously preserves the market mechanism. If those in charge use superabundance to fulfill their particular and egoistic interests only, then those unemployed cannot enjoy and live a meaningful life. Thus, human emancipation still cannot be realized.

While I am not competent to comment whether AI will realize Communism, I use this case to show that the standpoint of species being is necessary. The standpoint of species beings

has to be realized in markets, whether and how people can act from the standpoint of species beings in markets will be discussed in the formulation of the public ideology in the next chapter. However, in a planned economy, it cannot be realized, even if superabundance is met. While Socialism could take many forms, many of which I will address in Part II, socialism and communism, as Marx sees it, has the public ownership of all means of production. If everything means of production is collectively owned, then the state has to make decisions with regard to every production and distribution. It follows that Communism with such collective ownership of the means of production must be a planned economy.

Unless Marx had something else in mind that he did not write, it is hard to conceive whether markets with a price mechanism can function. As F. A. Hayek argues, people can only know general rules, but people cannot fully comprehend the knowledge of every particular, renewing, changing circumstances across time and places in society. Only individuals at particular circumstances know their particular circumstances decently enough to make the most efficient decisions. Therefore, a society needs decentralization rather than centralized planning.¹⁰² Specifically, decentralization here refers to the price mechanism that coordinates individual decisions and ensures that “the knowledge of the particular circumstances of time and place will be promptly used.”¹⁰³ Moreover, even with superabundance, if those who command production and distribution try to do so without knowing how to do so, they will necessarily impose their particular conception upon their whole society, thus undermining rather than upholding the standpoint of species-beings. When the state tells each individual what to do rather than lets each individual chooses and lives a life for himself or herself, it necessarily undermines

¹⁰² See F. A. Hayek. "The Use of Knowledge in Society." *The American Economic Review* 35, no. 4 (1945): 519-30. Accessed May 10, 2020. www.jstor.org/stable/1809376.

¹⁰³ *Ibid.*, 523.

each individual's autonomy and democratic decision-making it follows¹⁰⁴. The arbitrary, particular, and mercurial decision-making at the top also necessarily conflicts the predictability and generality of the rule of law.¹⁰⁵ Some may argue that as China and Russia have tried to implement socialism in a peasant society rather than in an advanced capitalist society without highly developed productive forces, so and Marx would be appalled at those practices in totalitarianism in the name of his doctrine.¹⁰⁶ As the Hayekian argument shows that even if a society has a reasonable material abundance, trying to implement socialism and communism as a planned economy rather in market economy is doomed because doing so necessarily exercises power from the standpoint of particular and arbitrary interests rather than that of the species being. Therefore, Any reform that disregards markets the underlying economic structure should be rejected immediately because it is impossible to act from the standpoint of species being in a planned economy. Otherwise, the closer a society gets to the ideal system, the closer it gets to the road to serfdom.

In this sense, for citizens to become species-beings and to conquer the alienating forces have to be accomplished in markets. Whether it is possible to do so requires serious theoretical labor to examine the ideology of distributive justice under which the standpoint of species-being is possible, or man become real citizens. It is also necessary and the socioeconomic and legal structures that correspond to this ideology and realize such a conception of justice and species being. Marx resorts to superabundance to rule out the need to discuss distributive justice in his theory. To engage in the serious theoretical and political labor, it is necessary to delve deeper

¹⁰⁴ F. A. Hayek, *The Road to Serfdom*, Routledge, London: The University of Chicago Press, original text published in 1944, 2007, 91-112.

¹⁰⁵ Ibid.

¹⁰⁶ Ian Shapiro, "Marxism," In *The Moral Foundations of Politics*, 72-73. New Haven; London: Yale University Press, 2003. Accessed May 10, 2020.

into distributive justice than Marx's generalized account of the species-beings and general interest does. I choose to use a liberal framework to see if there is a real public ideology that can eliminate alienation, and whether societies can act upon it to realize the rights of citizen and human emancipation. Let's start with John Rawls, one formidable mind of liberalism that cannot be ignored in contemporary political philosophy.

Chapter II - The True Public Ideology

Well-off: "Look here, fellow citizen, I'll work hard and make both you and me better off, provided I get a bigger share than you."

Worse-off: "Well that's rather good; but I thought you were agreeing that justice requires equality?"

Well-off: "Yes, but that's only as a benchmark, you see. To do still better, both of us, you understand, may require differential incentive payments to people like me."

Worse-off: "Oh. Well, what makes them necessary?"

Well-off: "What makes them necessary is that I won't work as hard if I don't get more than you."

Worse-off: "Well, why not?"

Well-off: "I dunno... I guess that's just the way I'm built."

Worse-off: "Meaning, you don't really care all that much about justice, eh?"

Well-off: "Er, no, I guess not."

-Jan Narveson, *"Rawls on Equal Distribution of Wealth"*, 1978

Marx argues that evolving changes in material conditions produce ruling ideas as ideology, which forces the dominant class to represent its interest in turn as the general interest. He is pessimistic about the potential of reforms and instead resorts to superabundance. But as we see in Chapter I, resorting to superabundance generates complex issues for the condition itself, feasibility, and desirability of Marx's solutions, or at least an interpretation of his solutions, so another approach should be chosen to respond to Marx's sharp criticism to transcend capitalism. To do so, that is, to substantively represent the general interest, it is *first* necessary to formulate a public ideology, which itself stands as an ultimate set of societal principles independent of

material conditions. By “independent of material conditions,” unlike Marx, who tries to transcend both the capitalist mode of production and markets, I mean that the set of principles as the public ideology should incorporate markets as the background condition but be independent of any particular condition, for example, the particular interests of the ruling class. *Second*, after formulating this real public ideology that truly stands for the public interest, it is also necessary to develop a social system that corresponds to this public ideology.

In Part I or more specifically in this chapter, I would propose a public ideology as a true public ideology of human emancipation, which is fused from four different but related thoughts. I would assess thoughts on distributive justice by John Rawls, John Tomasi, G. A. Cohen, and Ronald Dworkin, extract the merits in each’s thought, and fuses them together into a real public ideology. This ideology recognizes the first and the first half of the second principle of Rawlsian justice, injects economic liberty as another as important primary good to the Rawlsian framework, and rejects the difference principle in favor of Dworkin’s equality of resources. How I reach this conclusion shall be explained carefully. After formulating this public ideology, I shall discuss how this ideology can eliminate alienation and is thus the indeed ideology of human emancipation by discussing “exploitation and thus alienation” from the perspective of this public ideology and libertarian approach. The structures of the Social Economy that respects this public ideology of human emancipation will be discussed in Part II.

For the purpose of this chapter, let’s start with arguably the most well-known Rawlsian justice as fairness.

I. “Justice as the First Virtue of Social Institutions”

Rawls tries to use his two principles of justice as an counterexample to Marx’s critique to liberalism. I will first explain why and how Rawls gets to the two principles of justice as his conception as justice as fairness. Then I shall complement Rawlsian principles by adding

economic liberty as primary goods, which has equal weight with other liberty and should coexist with other liberty. Furthermore, assuming the society adopts Rawls's two principles, I will complement Rawls's arguments by arguing that the two principles should apply to markets beyond the public sphere as the basic structure. I will introduce G. A. Cohen's worry about the incommensurability between choosing markets, or more specifically the capitalist ethos in markets, and Rawlsian justice and then argues for the need to form a necessary egalitarian social ethos. After doing so, I will show why the difference principle, regardless of its dependence or independence of economic incentives, fails to realize human emancipation. The failure justifies the need to move to a more egalitarian alternative.

Rawls's goal is to formulate a coherent account of justice, which he says is "the first virtue of social institutions." He hypothesizes that a group of people come to a constitutional convention and try to reach an agreement of the underlying principles of justice underpinning the public sphere, which Rawls calls "the basic structure." He argues that people have to choose behind the veil of ignorance or the original position, arguably an expository device that encapsulates the requirements for everyone in a society, in order to choose the truly just public ideology. To choose such an ideology, these people should have the public reason to derive the conception of justice. Namely, if one person's reason concludes a particular conception justice, this reason should be publicly justified and shared with everyone else in the participatory community. these people should be free, equal, rational, and reasonable beings.¹⁰⁷ Each person has a sense of justice to comply whatever justice requires. Each person knows that s/he has a conception of the good without any knowledge about their personal, particular circumstances. Namely, each person has to think in abstraction from any knowledge about their particular

¹⁰⁷ John Rawls, *A Theory of Justice*, Cambridge. MA: Harvard University Press, 1999, 17.

circumstances such as race, gender, age, income, wealth, natural endowment, class structure, level of economic development, etc.¹⁰⁸ What each does know is the unlimited general information about the society such as economic theories and political affairs.¹⁰⁹ The society is also assumed to have a market economy with moderate scarcity rather than superabundance, which can be counted as a general fact about the society.¹¹⁰ Moreover, citizens are mutually disinterested from each other, meaning that each person does not know or think independently of the specific conception of goods of oneself or of others, but they know that all citizens have ends that they want to pursue for themselves.¹¹¹ To secure each person's end, they know that everyone desires primary goods of rights, liberties, opportunities, and income and wealth, all of which are necessary for everyone to set expectation and pursue their ends accordingly.¹¹²

The two principles of justice can be derived once these conditions are in place. Because of everyone's equal public reason, status, the recognition of the need for primary goods for everyone, and the mutual disinterestedness of everyone's end, each person should have equal political liberty in the public sphere to both guarantee their contribution and compliance with justice in public and the free pursuit of ends and good life in their private life. Moreover, to ensure that every person can freely set and pursue his or her end, socioeconomic circumstances should be structured to guarantee people's freedom. Nevertheless, unlimited knowledge about the society make people know that at the original position know that inequality inevitably rises in market interactions, and complete equality with equal distribution of income and wealth leads the

¹⁰⁸ Leif Wenar. "John Rawls". *The Stanford Encyclopedia of Philosophy* (Spring 2017 Edition), Edward N. Zalta (ed.). URL = <<https://plato.stanford.edu/archives/spr2017/entries/rawls/>>. Accessed May 6, 2018.

¹⁰⁹ Ibid. Unfortunately to Marx, the ideology that "to each according to his ability and to each according to his need" and Communism as a corresponding socioeconomic structure are ruled out given what people do know in the original position, if Communism requires a negation of markets.

¹¹⁰ Ibid.

¹¹¹ Ibid., 112.

¹¹² Ibid., 54.

road to serfdom. Citizens at the original position conclude that inequality is acceptable only if it is publicly justified to everyone's advantage. Socioeconomic circumstances should be structured to ensure that people can have access to what they aspire to in market interactions. Therefore, a primitive form of the two principles can be given as the following:

“First: each person is to have equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.

Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be everyone's advantage and (b) attached to positions and offices open to all (53).”

The first principle affirms everyone's free and equal political liberty in the basic structure. To enable people to freely set and pursue meaningful ends for themselves, the second principle affirms the interest of everyone, as positions and offices are open to all, and social and economic inequalities are arranged to everyone's advantage. Nevertheless, the second principle is arguably very vague and needs to be elaborated what it means, and how to work toward “everyone's advantage” and “positions and offices equally open to all.” In this sense, Rawls formulates two candidates for the meaning of each of the two terms.

		"Everyone's advantage"	
		Principle of efficiency	Difference principle
"Equally open"	Equality as careers Open to talents	System of Natural Liberty	Natural Aristocracy
	Equality as equality Of fair opportunity	Liberal Equality	Democratic Equality

Rawls discusses the four potential meanings. “Everyone's advantage” can mean either 1. “principle of efficiency” or pareto-optimality, under which a distribution cannot be made more

efficient because it cannot make one better off without making others worse off,¹¹³ or 2. the difference principle that works toward “to the greatest expected benefit of the least advantaged.”¹¹⁴ “Equally open” could mean either “equality as careers open to talents” or “equality as equality of fair opportunity.” The meaning of “equality as careers open to talents” is arguably very clear, while “equality as equality of fair opportunity” is defined as the following: “assuming that there is a distribution of natural assets, those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system.”¹¹⁵

Rawls discusses four possible outcomes as the following and argues that democratic equality is the one captured in the two principles.¹¹⁶ Rawls first rejects the pure principle of efficiency, as systems that fundamentally violate everyone’s free and equal status and even equal liberty under this principle. For example, slavery or serfdom can be structured so efficiently that any further changes in the distribution cannot make any one better off without making others’ worse off.¹¹⁷ Therefore, Rawls rejects the pure principle of efficiency and moves to the second quadrant of the System of Natural Liberty. In the second quadrant, equality as careers open to talents is presupposed against the conditions of equal liberty set by the first principle. Nevertheless, everyone can live a life by using what s/he is entitled but does not incorporate equal and as extensive freedom, as it permits the influence of morally arbitrary factors created by social circumstances, which further influence the basic structure as the background condition of the free pursuit of one’s conception of goods.¹¹⁸ For example, parents’ distribution or income

¹¹³ Ibid., 58.

¹¹⁴ Ibid., 72.

¹¹⁵ Ibid., 63.

¹¹⁶ Ibid., 57.

¹¹⁷ Ibid., 61-62.

¹¹⁸ Ibid., 62-64

influences children's accumulation of income and wealth, which certainly affects what one can acquire by using their talents to pursue their conception of the good. In this case, the posterity does not earn and thus deserve the initial distribution, which to them is morally arbitrary. Based on this reason, Rawls rejects the second quadrant and moves to the third quadrant and discusses Liberal Equality.

Liberal Equality complements Equality as careers open to talents by adding the requirement of equality of fair opportunity. Theoretically, Rawls argues that Liberal Equality rules out the influence of social contingency discussed above. Nevertheless, Liberal Equality still permits the morally arbitrary influence of the natural distribution of abilities and talent. Moreover, the extent that abilities and talents are developed (partly) depends on social conditions and attitudes.¹¹⁹ These two conditions result in the nonperfect fair equality of opportunities and deny those without conditions of equal freedom and fair equality of opportunities to develop their abilities, thus the same willingness to exercise such abilities and the same prospect to use them. To refine and complement fair equality of opportunity, a society should needs to work for the benefit of the least advantaged. Those who are better-off with better expectations may benefit from some morally arbitrary factors. Although they do not deserve these factors because they are not responsible or at least not entirely responsible for these factors, they are still entitled to them as long as they exercise these factors within the requirement of justice, that is, their actions also improve the welfare and opportunity of the least advantaged, while they are pursuing their own expectation.¹²⁰ In this way, they are mitigating the morally arbitrary effect of natural distribution of natural abilities, talents, and social conditions. Therefore, Rawls moves to the fourth quadrant

¹¹⁹ Ibid., 64.

¹²⁰ Ibid., 87.

of Democratic Equality and derives the difference principle as the interpretation of “everyone’s advantage.” In this way, a more elaborated version of the two principles of justice representing the public interest is formulated:

First Principle: Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

Second Principle: Social and economic inequalities are to satisfy two conditions:

- a. They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity*;
- b. They are to be to the greatest benefit of the least-advantaged members of society (the *difference principle*).¹²¹

Why do the two principles represent the public interest rather than the particular interests of the ruling class? Rawls argues that the two principles fulfill five necessary constraints. To explain the reason that why Rawls thinks or might think that the two principles are the countermodel to Marx’s claim, the paper delves into three of them. First, the two principles fulfill the requirement of generality, as people at the original position formulate and agree the two principles without knowing any particular knowledge or circumstances.¹²² The two principles are not conditioned on particular interests including the interests of the ruling class but express and/or the social relations between capitalists and proletariats but the “general properties and relations.”¹²³ Second, the two principles fulfill the constraint of universality because they require everyone as free, equal and moral persons who can come up with and/or accept the two principles by following the steps illustrated above.¹²⁴ Moreover, they can internalize the principles and “use them in deliberations,” so the two principles are applied to everyone as free

¹²¹ Leif Wenar.

¹²² Ibid., 113.

¹²³ Ibid.

¹²⁴ Ibid., 114.

and moral persons, rather than to some people but not to others.¹²⁵ Third, the two principles fulfill the constraint of publicity.¹²⁶ Because everyone in society recognizes the two principles, the two principles are publicly recognized.¹²⁷ They are not unilaterally based on the wills of the ruling class. Rather, the public recognition gives the two principles a status of moral constitution, which enables everyone to will and pursue ends for themselves. On the contrary, to Marx, the ruling ideology of the ruling class may not fulfill these conditions. They have neither generality, as they are derived from situations that affirm the interest of the ruling class only, nor publicity, as the ideology cannot be recognized by everyone who thinks in Rawls' model as free, equal, reasonable, and mutually disinterested persons. They may or may not have universality. It may have universality, for example, as utilitarianism may universally apply to everyone in the society so long as the practice is in accordance with the maximization of the collective utility. It may not have if a hierarchical society, for example, bars certain people from accessing some public facilities, which are supposed to be open to all. In either case, it is certain that the ideology fails to fulfill Rawls's other requirements. Thus, it would be unjust and thus be ruled out by Rawls' theory of justice.

However, Marx would argue that even if the ideology has a conception of the public interest, given the existence of markets, such ideology can never be realized but be used to only intensify the oppression of proletariats by bourgeoisie. To respond to Marx's claim, it is necessary but not sufficient to just formulate an ideology for the public interest. Rather, it is also necessary to argue how such an ideology can be realized within markets. In Rawls's unpublished *Justice as Fairness: A Briefer Restatement*, Rawls responds to this criticism by providing a

¹²⁵ Ibid.

¹²⁶ Ibid., 115.

¹²⁷ Ibid.

division of labor between different principles in the basic structure as the public sphere of cooperation and private transactions. He argues that the two principles should be agreed and applied to the public sphere of cooperation or social institutions as the basic structure.¹²⁸ The two principles set the background justice in society that should be maintained over time. If people agree to adopt the two principles and maintain justice as fairness, they should also agree on the “adjusted procedural justice” to maintain the background justice.¹²⁹ Rawls recognizes that even if the initial state and social conditions are just, and individual agreements are also seemingly just given people’s free associations and voluntary exchanges, it is still possible to undermine the background justice by allowing the presence and influence of morally arbitrary factors like considerable concentration of wealth and social contingencies that follow.¹³⁰ Given such presence and influence, the two principles would not be maintained. To secure the background justice, people should have the means to realize and maintain justice set by the two principles in their public sphere of cooperation. Therefore, they should also agree on certain “schemes of cooperation that satisfy the two principles” in the basic structure, and they should also agree on the potential adjustments to be included to respond to unforeseeable outcomes to maintain justice.¹³¹ For example, to work for the least advantaged, the government as the basic structure is justified to implement relevant policies like progressive taxation, affirmative actions, and other means in ways consistent with the two principles to preserve their free and as extensive liberty and equality of opportunities and thus maintain justice as the background condition.

Furthermore, Rawls argues for a “division of labor” between principles that govern the basic

¹²⁸ John Rawls. *Justice as Fairness: A Briefer Restatement*. 38.

¹²⁹ *Ibid.*, 37.

¹³⁰ *Ibid.* 42.

¹³¹ *Ibid.*, 53.

structure and private, separate transactions.¹³² People can pursue their conceptions of the good for their own interests, and they can exercise whatever they are entitled to, even if some of them are morally arbitrary. What is important is that doing so is subject to the condition of the basic structure as schemes of cooperation to satisfy the two principles.¹³³ They should pay their fair share in the basic structure to maintain the basic structure. If they fulfill their obligations in this way, they are entitled to exercise their entitlements to pursue what they value. Furthermore, Rawls further argues that the public schemes of adjustment should not be interpreted to disincentivize people. Rather, justice as fairness is supposed to “attract people to positions where they are most needed from a social point of view” and encourage individuals to educate and exercise their endowments for the general good.¹³⁴

The content of justice does not determine its realization. The ideal of justice depends on a well-ordered society, in which everyone “willingly accepts and agrees to the same principles of justice.”¹³⁵ People generally comply with the principles and realize them in the basic social institutions, and “are morally motivated to comply by their sense of justice.”¹³⁶ The reasoning for the two principles can at most convince people to endorse the two principles, but justice cannot be realized in the basic structure if people do not act upon it. To act upon the two principles, people should have a corresponding moral psychology called “the sense of justice” to motivate them to comply with justice. Given that people have other incentives that might conflict with such motives as required by justice, the sense of justice should be the highest-order desire for people to conform to. By endorsing the two principles and having the sense of justice to act upon

¹³² Ibid., 42.

¹³³ Ibid., 38.

¹³⁴ Ibid., 59.

¹³⁵ Ibid., 4-5.

¹³⁶ Ibid., 41, 125-126.

and reinforce such principles, people can pursue their ends in ways that constrain their pure egoistic interests, which are trumped by the sense of justice as the highest-order desire. Such a moral psychology might arguably be Rawls's reply to Marx how citizens can become species-being and transform political emancipation into human emancipation, at least in the theoretical spheres, leaving the specific social system of justice aside.

II. Where is economic liberty?

Although Rawls's two principles of justice are ingeniously formulated, the system of justice as fairness does not include economic liberty. In fact, Rawls seems to consider economic liberty less important than other liberties or primary goods. For example, when Rawls replies to Robert Nozick's critique in his unpublished *Justice as Fairness: A Briefer Restatement*, he seems to consider economic liberty less importantly than other liberty or primary goods. Basically, Rawls adds a constraint to Nozick's entitlement theory and argues that people's entitlements and holdings that flow from entitlement should be regulated by the difference principle. The below argument is an abbreviated version of Rawls's original reply to Nozick, which attempts to justify such an constraint by the two principles. If people are entitled to their entitlements, they are entitled to anything such as their holdings that flows from their entitlements, "via a process of pure adjusted procedural justice regulated by the two principles of justice with the difference principle."¹³⁷ If people are entitled to their entitlements and holdings, they ought to have it. Nevertheless, as "people's holdings flow in part from their native endowment."¹³⁸ Therefore, "people are [partly] entitled to their holdings," meaning that "they may legitimately expect from

¹³⁷ Rawls, *Justice as Fairness: A Briefer Restatement*, 57.

¹³⁸ Ibid.

the exercise of their endowments within the existing institutional background as regulated by the difference principle.”¹³⁹

Although Rawls’s argument is consistent with one conclusion of the next chapter, which as we shall see states that self-ownership should not be a supreme idea and should be restricted. Nevertheless, because Rawls gives no place of economic liberty in his framework, it is unclear what he means by such a constraint or regulation by the two principles. Does he mean that economic liberty should be coexist with other liberties, and economic liberty should be constrained by the coexistence of the big conjunction of liberties? Alternatively, does he mean that the two principles of justice should be lexically prior to economic liberty, and the lexical priority of the two principles justifies the constraint on economic liberty, which is less important?

If the two principles of justice are lexically prior to economic liberty, then classical liberals and libertarians can critique that when striving toward justice, there is no principled line between the legitimate requirement of justice on people’s duties and arbitrary and constant interference into people’s daily life. Rawls might apply that the interference is neither constant nor arbitrary, as such interference happens only when the distribution fails to respect the two principles. However, even if this Rawlsian reply works, it only works in theory but not in practice. If people in a society conclude that they should improve their level of justice, but if they attempt to do so, the enterprises of the better-off would not be functioning. For instance the tax imposed upon the top 10 percent is 90 percent, which is excessively burdensome to them.¹⁴⁰ Or

¹³⁹ Ibid.

¹⁴⁰ According to Emmanuel Saez’s research, the optimal tax income tax rate for the top 1 percent is 73 percent that works to the standpoint of justice without reducing output, and such a tax rate is arguably not an excessive burden. The issue of incentive and disincentive will be discussed very thoroughly soon. Paul Krugman, “The Economics of

doctors and nurses should exercise their abilities required by the difference principle, but they have special burdens in their careers such as long work hours and unpredictable schedule, and working toward the lexical priority of what justice requires undermines their pursuit in their daily life. Nevertheless, the Rawlsian reply above would demand such an excessive burden because people should exercise their endowments “within the existing institutional background as regulated by the two principles of justice.”¹⁴¹ After this taxation, justice as fairness is better realized, but better-off faces greater difficulty to set and pursue their ends. This case demonstrates that the lexical priority of the two principles of justice over economic liberty threatens to undermine Rawls’s goal to affirm and uphold people’s pursuit of their own ends. Therefore, the restriction on economic liberty cannot be the lexical priority of social justice.

What’s left is the coexistence of the big conjunction of liberties. In this regard, John Tomasi formulates his political philosophy and theory of market democracy, which fuses both social justice and economic liberty, or both classical liberals and Rawlsian egalitarians. Tomasi complements the Rawlsian framework by affirming economic liberty as one of the weightiest rights. He argues that market democracy has a thick economic liberty, meaning that economic liberty should “[work] along with other basic rights and liberties” such that people can live life by pursuing ends they judge meaningful and exercise the “moral powers of citizenships” to maintain the background condition to secure people’s freedom to conceive and pursue their own life stories.¹⁴² Under Tomasi’s conception of market democracy, the constitutionally entrenched economic liberty is as important as other liberties and cofunction with other liberties. Like social

Soaking the Rich,” *The New York Times*, January 5, 2019, <https://www.nytimes.com/2019/01/05/opinion/alexandria-ocasio-cortez-tax-policy-dance.html>, accessed May 9, 2020.

¹⁴¹ Rawls, 57.

¹⁴² John Tomasi, *Free Market Fairness* (p. 90), Princeton University Press, Kindle Edition.

democrats such as Rawlsian egalitarians, market democracy institutionalizes a social minimum and states that democratically elected officials should decide the specifics of the social minimum.¹⁴³ Unlike Rawlsian egalitarians, market democracy insists that the pursuit of social minimum “must pass some heightened degree of judicial scrutiny.”¹⁴⁴ Likewise, the restriction on economic liberty for aims such as social minimum also should pass heightened degree of judicial scrutiny. Otherwise, the mere pursuit of economic liberty or social justice would “disrupt the fully adequate scheme of basic liberties, thus eroding the conditions necessary for the development and exercise of people’s moral powers.”¹⁴⁵

Apart from the injection of economic liberty as one of the paramount basic liberties, Tomasi’s market democracy recognizes an arguably modified form of the difference principle. Rawls concludes that social and economic inequality is justified only if it works toward the greatest benefit of the least advantaged. Tomasi instead argues instead that “a set of institutional arrangement is just only if it works over time to improve the condition of the least well-off citizens, and they “offer greater benefits to the poor than any other alternative set of (rights-protecting) institutions.”¹⁴⁶ To Tomasi, it is not necessary for socioeconomic inequality to work toward the greatest benefits of least advantaged in a Rawlsian way, and a stark level of inequality is permissible only if it just improves the least well-off citizens, as long as least well-off are better off than they would be in any other alternative institutions. Tomasi has a very lax requirement of inequality because he believes that market democracy champions economic growth, which will make the least better-off than they would be in any other alternative

¹⁴³ Ibid., 92.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid., 89.

institutions that are ambivalent to economic growth or do not take economic growth seriously enough.¹⁴⁷ Tomasi points out that as Rawls is ambivalent to economic growth, so even if Rawlsian justice is realized, the least-advantaged cannot be sufficiently better-off because of zero or weak economic growth.¹⁴⁸ Moreover, he treats economic growth “as an antidote to the problem of worker vulnerability in postindustrial societies” because he believes that economic growth gives citizens more power “to bargain for better conditions, or even walk away.”¹⁴⁹ Based on this point, Tomasi proposes what can be arguably called “pro-growth-market-democracy-with-social-minimum-capitalism” as the social system that corresponds to his philosophy, and he thinks that any alternative institutions other than capitalism exclude the incentive for economic growth.

In Part I, the chapter does not analyze the components of the social system in depth. What can be said briefly is two things: Tomasi is too optimistic about capitalist markets, and although economic growth is important, it does not justify any incentive for growth. Regarding the first point, as explained in the Chapter I, the increased productivity is useless if people do not act from the standpoint of species-beings. It is also unclear how economic growth has such a miraculous effect as “an antidote to the problem of worker vulnerability in postindustrial societies,” or how people can “bargain for better conditions, or even walk away” if stark inequality in income and wealth is still present and can translate itself into unequal power influence in corporate and political world.¹⁵⁰ Tomasi does not explain the mechanism of this miraculous effect under his market democracy. The following analogy can illustrate this point

¹⁴⁷ Ibid., 110-111.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

vividly. Higher economic growth can give Japanese Black Cattle better massage, more refined beer, and other divine treatments such that these cattle can live better lives, but it is hard to see why these cattle as have more power and liberty as a result other than being killed and become tasty and tasty beef dishes. The same point can apply to human as rational and reasonable beings. Under market democracy, it is hard to see why just economic growth alone necessarily empowers people, although it surely can make people's lives better. It is also unclear how economic growth by itself becomes the panacea of alienation. Under market democracy, based on Tomasi's argument, he must agree that humans under his market democracy are essentially domesticated animals.

Regarding the second point, it is also hard to see that why the ambivalence toward economic growth implies the constraint of economic growth, and why a more stringent requirement on inequality necessarily disincentive people to pursue productive activities in ways consistent with the requirement of justice. In this regard, Rawlsian framework can be just slightly tweaked to recognize the role of economic growth and benefit the least-advantaged more than market democracy does. Motivated by the sense of justice, people are willing and even happy to work with a stringent requirement of inequality and result in robust economic growth. Therefore, the least-advantaged will receive the greatest advantages than what they can get in market democracy. Such a Rawlsian scheme benefits the least-advantaged more than Tomasi's market democracy. Based on these points, although I agree it is imperative to inject economic liberty as one equally weighted liberty into the whole scheme of liberties, I reject Tomasi's revised difference principle and thus the market democracy that corresponds to this revised principle.

Perhaps more importantly, when Tomasi justifies the unequalizing incentive for economic growth in market democracy, he ignores the uncivic nature of such incentive that is at variance with Rawls's sense of justice or Marx's s. As we shall see in the next section, if we take such justifications very seriously, they will turn out to be very disregarding and even threatening to other fellow citizens. In fact, when incentives are taken seriously, even Rawls's justice as fairness also reveals some weakness. In the next section, I will discuss people's incentive by raising some sharp critiques to Rawls by G. A. Cohen.

III. The Egalitarian Social Ethos and the Scope of Justice

Rawls's two principles of justice seems to open the door of human emancipation, but the scope of their application is worth discussing. Rawls claims that his two principles only apply to the public sphere of cooperation, or the basic structure of a society, which clearly includes the coercive structure of the government. But does the basic structure include anything else? Specifically, should the two principles be also applied to markets? If they include markets, and people in market interactions fail to conform to the two principles, does that mean that economic justice and morals can never be realized? In this subsection, I would argue that the two principles should also apply to markets. In doing so, a society should not risk undermining equal and as extensive liberty and fair equality of opportunity when it works toward the difference principle, and the society should shape the acquisitive, self-interested social ethos to raise the maximin possible enough to make a more just outcome possible.

In Lecture 8 and Lecture 9 of *If You're an Egalitarian, How Come You're So Rich?*, G. A. Cohen presents a dilemma of whether the basic structure should include markets. Suppose that the basic structure does not include the market, and it is permissible for people maximize

their selfish interests. As Rawls argues that the two principles are also the moral constitution, citizens should internalize them and use them in daily interactions. (1) Only in this can “citizens in a just society adhere to its principles of justice.”¹⁵¹ For example, as the difference principle stipulates that morally arbitrary social and economic inequality should be structured in ways to work toward the greatest benefit of the least-advantaged members of society, this alone entails that any marginal pursuit of interest in the better-off, which generates an extra unit of inequality, must work toward the least well-off. For example, as I morally arbitrary earn one extra dollar using whatever means, and you earn nothing, I create a marginal inequality over you because I’m one dollar richer than you and also those at the bottom. The extra dollar I earn is just if and only if the activity that makes me earn this dollar works toward the greatest benefit those at the bottom. On the other hand, if I’m an acquisitive maximizer for the interest in myself without others-regarding interests for the least advantaged in the society, then the extra dollar I earn is unjust. Therefore, (2) “[citizens] do not adhere to the difference principle if they are acquisitive maximizers in daily life,” and (3) “in a society governed by the difference principle, citizens lack the acquisitiveness” in market interactions.¹⁵² Nevertheless, market interactions formulated by Adam Smith are just only if parties involve in interactions sympathize and recognize each other’s legitimate interests. In Smith’s words, an individual “may run as hard as he can” if he does not “juttle, or throw down any of [his competitors].”¹⁵³ Smith’s conception of justice in markets requires virtues of justice only, rather than expanded beneficence toward the least advantaged, and the government needs to calibrate only the minimal beneficence and oblige only “a certain

¹⁵¹ G. A. Cohen, “Where the Action Is: On the Site of Distributive Justice” in *If You're an Egalitarian, How Come You're So Rich?*, Cambridge, MA: Harvard University Press, 2000, Kindle Edition. 140.

¹⁵² *Ibid.*

¹⁵³ Smith, *The Theory of Moral Sentiments*, 86

degree of propriety to one another” to “[promote] the prosperity of the commonwealth.”¹⁵⁴ On the other hand, if people adhere to Rawls’s two principles in markets, they should also work toward the least advantaged or in Smith’s terms, have the expanded beneficence toward the least well-off. In other words, according to the two principles, the Rawlsian justice can never be realized if people are indifferent to the least advantaged.

However, critics of the above arguments may point out the “basic-structure objection” that (4) “the principles of justice govern only the basic structure of a society” rather than markets.¹⁵⁵ In the basic structure as the public sphere of interactions, citizens only need to comply with what the basic structure requires given the command of justice. For example, citizens must willingly obey laws and pay taxes in public in order to comply with justice. After they pay their fair share to contribute to justice, it would be permissible for them to pursue self-interested activities for their own interests only. Therefore (5) “citizens in a just society may adhere to the difference principle whatever their choices may be within the structure it determines, and, in particular, even if their economic choices are entirely acquisitive.”¹⁵⁶ Therefore, (5) contradicts (2) in terms of whether people should be acquisitive in market interactions, so according to the basic-structure objection, (6) “proposition (2) lacks justification.”¹⁵⁷

But to realize the Rawlsian justice, citizens should not have the acquisitiveness understood as the pursuit in solely the interest in oneself. However, following Smith’s understanding of economic justice and the argument consisted of (4) and (5), if the two

¹⁵⁴ Ibid.

¹⁵⁵ Cohen, 140.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

principles govern only the basic structure of a just society, then people can pursue entirely acquisitive interests. But if (5) makes sense, then Rawls's justice as fairness cannot be realized because the difference principle is not realized, so Cohen argues that (5) is inconsistent with many Rawlsian statements about the relationship between citizens' self-interested desires and justice. For instance, to realize and sustain justice, Rawls argues that people should have the sense of justice as the highest-order desire, which follow from their reason and reinforce the reason to comply with justice and commitment toward the least well-off. Nevertheless, if justice is applied to the basic structure only, then people can have entirely acquisitive ethos in their daily life outside the basic structure, but such acquisitive ethos may permit the emergence of situations that are deeply unjust and incompatible with the sense of justice. Therefore, to realize the Rawlsian justice, either (8) "proposition (4) is unsustainable,"¹⁵⁸ or the two principles applies to either 1. beyond the basic structure of the society to include market or 2. the market as a part of the basic structure. Following Cohen's arguments, both entail that the two principles should apply to markets.

As I see it, even if we grant that the sole determinant of the realization of justice is what people believe and motivate themselves to do in the basic structure, the *realization of justice* is not equivalent to *the level of justice*. As one society can be said to more or less just than the other or itself in previous or future periods, it is very possible that a society can be very unjust but generally realizes the difference principle, if people activate their sense of justice in the basic structure but pursues their acquisitive and egoistic interests in markets and other private interactions. In terms of enhancing the level of justice or converging the level of justice and the realization of justice, the basic structure understood as the government has to be so omnipotent

¹⁵⁸ Ibid.

that it can always correct the force of injustice permitted by people's acquisitive ethos in their private spheres.

However, the basic structure understood as the government alone is not so omnipotent because the manpower, resources, and expertise it commands is limited. For instance, if companies with acquisitive ethos collude and pollute the environment of the least advantaged and justify their practices by hiring the best lawyers and using their unrivaled mastery of data, it seems that the government can do nothing about it. While philosophically it is always possible to realize the two principles by just saying that the basic structure should take relevant actions, Rawls's solution might work in theory but fail in practice to raise the level of justice or converge the level of justice and the realization of justice. What Rawls needs to consider is the empirical reality and the best possible means to work toward justice as fairness to respond to Marx, who famously insists on scientific, objective facts as the basis of his theory.

Moreover, Marx would still say that many people would produce for their own sake only without making their community and thus humanity as object. Marx can say those who are better off suffer from alienation from their species-beings by failing to exercise their objective and essential human essence. In this aspect, Rawls seems to also hope that people are not entirely acquisitive themselves, as he argues that justice as fairness and the public rules set by the basic structure should resonate with people's sense of justice, encourage people to develop and use their skills for the general good, and "attract people to positions where they are most needed from a social point of view."¹⁵⁹ If justice requires only the robust sense of justice in the basic structure, the emphasis on the moral psychology of justice in private life and the hope regarding

¹⁵⁹ Rawls, 277.

people's exercise of their skills would be unnecessary. In this regard, Rawls seems like Smith, as both the former hopes that people can have a very robust sense of justice in their daily life, and the latter hopes it is better for people to have expanded beneficence toward the least well-off. Nevertheless, they seem also to be hesitant to incorporate such moral psychology as the fundamental requirement, both within and outside the basic structure. Therefore, Cohen's worry is still illuminating in terms the relation between people's desire and the level of justice in reality. The rest of this section will evaluate another critique by Cohen and further argue that even if the two principles are realized with Rawls's basic-structure approach, the realization does not rule out Cohen's critique because the least advantaged can still be trapped in similar situations and leave the outcome of the distribution unjust.

It might be worried that under this circumstance, there is a fundamental clash between choosing the Rawlsian justice and markets. To preserve both the Rawlsian justice and markets, people should not be acquisitive to maintain the former and be acquisitive to maintain the latter. To respond to this worry, I think that if Rawls agrees with Cohen regarding the sphere of justice, he would argue that the two principles should apply beyond the basic coercive structure and include markets, and the difference principle understood as the lexical difference principle should be applied. Namely, the difference principle should be applied only after the first principle and fair equality of opportunities is preserved. As equal and as extensive liberty in the first principle and fair equality of opportunities in the first part of the second principle are lexically prior to the difference principle, the realization of the difference principle is conditioned upon the realization of these two requirements first.¹⁶⁰ It does not follow that for every marginal unit of profit earned and thus inequality created, this marginal dollar must necessarily have

¹⁶⁰ Ibid., 37-38.

something to do with the least advantaged. Otherwise, this risks the dissolution of many activities and industries within markets and threatens both equal and as extensive liberty and fair equality of opportunity. It is permissible for a firm to “run as fast as [it] can” in some of its operations, and certainly they may generate inequality over the least advantaged. Making these operations in accordance with the difference principle might risk their own survival, thus violating equal and as extensive liberty and equality as fair opportunities for both workers and managers of this firm. But once firms should try their best to fulfill the difference principle within their capabilities. In this way, they are not driven by interests only in themselves but produce in a way that both benefit the least advantaged and themselves, thus consistent with the difference principle. If they do not have such abilities, they should think, consult those with relevant expertise, try to develop such abilities, and pay their fair share in the basic institutions to exercise their public reason, activate sense of justice, and comply with justice.

Rawls says that equal and as extensive liberty and equality of opportunity should have lexical priority, but Cohen would say that an unjust distribution is still possible. Namely, the convergence problem is still unresolved. Resolving this problem requires a very robust egalitarian social ethos in society. If a society A is very self-interested and reaches its maximin, or the fullest extent of the realization of the difference principle possible in that society, then any further attempt to work toward the difference principle will threaten to diminish equal and as extensive liberty and fair equality of opportunity. Doing so will disincentive production and thus diminish liberty or equality because society is primarily motivated by self-interest in those who are better-off. On the other hand, if a society B that is not so self-interested reaches society A's maximin, further attempts to work toward the difference principle will not disincentivize production, as those who are better-off have more other-regarding motives other than interests

only in themselves. Therefore, a relatively non-self-interested society has a higher maximin than that of a more self-interested society.¹⁶¹ Nevertheless, in a very acquisitive society, even if the society achieves the highest possible level of justice, the outcome of distribution can be very unjust because the least advantaged could still be trapped in similar conditions without further possible improvement.

It might be argued whether society B is realistic. Today people in many works such as lawyer, doctors, and even consultants are constrained by many empirical factors such as long work hours or the struggle to secure themselves in society first. Given these constraints, it might be argued that even if they want to help the least-advantaged the most, their constraints prevent them from doing so.¹⁶² I recognize these special constraints for some people, and these special constraints are not what we are discussing, as the duty to comply with justice should be reasonable, and its burden shall not be too excessive to constrain one's pursuit of his or her end. Given the special constraints, there must be non-special constraints. For people who already secure themselves and are very well-off, of course they should have and act upon a more egalitarian justice from Cohen's perspectives. For instance, the ratio between payment to corporate executives and an average employee in the U.S. is around 280 times,¹⁶³ while that in Nordic countries is only about 3 or 4 times.¹⁶⁴ While Nordics may say that "I earn 3 or 4 times than average! That's more than enough!," Americans may say that "I'm terribly sorry for you

¹⁶¹ Cohen, 143-144.

¹⁶² Credit to an interesting talk Professor David Bjerk at Claremont McKenna College.

¹⁶³ Lawrence Mishel and Julia Wolfe, "CEO compensation has grown 940% since 1978," *Economic Policy Institute*, August 14, 2019, <https://www.epi.org/publication/ceo-compensation-2018/>, accessed April 19, 2020.

¹⁶⁴ Niklas Pollard, "Sweden, where CEOs come cheap and still deliver," *Reuters*, June 14, 2012, <https://www.reuters.com/article/us-sweden-executives-salaries/sweden-where-ceos-come-cheap-and-still-deliver-idUSBRE85D0R920120614>, accessed April 19, 2020.

guys, but I earn this, and so it is all mine.”¹⁶⁵ The implicit social ethos behind the vastly different distributional outcome is evidently clear.

This is indeed a situation that even the fullest realization of Rawls’s two principles, including the lexical difference principles, in a self-interested society cannot address. Namely, the acquisitive ethos of a society still leaves the room for an unjust outcome of distribution and makes Rawls’s, Smith’s, and also Marx’s vision a mirage that would be impossible to actualize. To make a more just outcome or a higher maximin possible, the society should walk toward society B’s direction. Doing so is possible if and only if the society has society B’s social ethos. Therefore, to realize a more just outcome, a self-interested society should shape its social ethos to incorporate more other-regarding interests. Doing so involves the efforts of both the government as the basic structure, private entities like firms, and the civil society. As the egalitarian social ethos becomes stronger, convergence between the level of justice and realization of justice will also increase. The following two sections discuss some ways to shape social ethos toward justice in the workplace and social relations of firms.

To sum up at this point, Rawls says that the two principles of justice represent the public interest, and it seems that justice as fairness can be a strong candidate of public ideology that opens the door to realize human emancipation. Nevertheless, justice as fairness should incorporate economic liberty as one as equally important primary good as every other primary good. Moreover, the level of justice is not equivalent to the realization of justice. Rawls claims that “principles do not alone suffice for background justice,” and I agree with Cohen that justice should not be applied to the basic structure alone. Rather, it should expand its sphere of

¹⁶⁵ Marx would sharply disagree with the point of “I earn this.”

application to include markets. To work toward economic justice, a society should shape its purely self-interested ethos to include other-regarding motives and doing so should be conditioned upon the non-violation of equal-and extensive freedom and fair equality of opportunity.

The discussion on the sphere of application, people's incentives of production, and egalitarian ethos raise some further questions. Given the convergence problem that a society can be very unjust even it fulfills its difference principle by reaching the highest possible maximin, why shall we judge that this society respects rather than disregard the difference principle? If citizens are very acquisitive in markets, does justice as fairness given such acquisitive incentives really achieve human emancipation? Why does the Rawlsian framework have so many versions of the difference principle, and why does an inegalitarian ethos contrary to the sense of justice emerge in some of those versions? Ultimately, should we even accept the difference principle?

IV. The Difference Principle as Still Political Emancipation

A society can fulfill the two principles of justice and still remains unjust because of the acquisitive and unequalizing incentives that lower the highest possible maximin. But why should we say that this society fulfills the two principles in this case? As we shall see, realizing justice as fairness in an unjust society is possible because of interpretative issues of the difference principle. More specifically, this bizarre situation arises only if people's acquisitive and unequalizing incentives affect the content of justice; this bizarre situation disappears only if the content of justice is independent of people's incentive whatsoever. These acquisitive and unequalizing incentives are arguably reflections of material worlds in human self-consciousness, so the independence of justice from these incentives entails its independence from the material

conditions, except for the general background of markets. I shall also argue first that if people are preoccupied with their acquisitive and unequalizing incentives, their sense of justice is not robust enough to enable them to act like species-beings; rather, they only aim to respect the rights of man rather than the rights of citizens, and political emancipation and human emancipation. Second, when a social ethos arises from equalizing and unequalizing incentives, the exact content of Rawlsian justice turns out to not so clear. This unclear content of justice also arbitrarily determines how much egalitarian ethos as a higher form than the two incentives arbitrarily determines the consequent distribution, which does not fully correct morally arbitrary inequality. One of the two points is sufficient to reject the difference principle and justifies the need to search for an alternative with more robust commitment to equality.

The bizarre situation of the realization of justice as fairness in an unjust society is possible only if the difference principle is interpreted in the way that incorporates acquisitive and unequalizing incentives. Consider the following case:

- (1) Suppose people in a society have very acquisitive incentives, and the society fulfills its maximin, call this scenario p.
- (2) This society has a glaring level of inequality, and the least advantaged are very badly-off.
- (3) Based on reflective equilibrium, therefore, people in this society conclude that they should have more commitment to equality.
- (4) However, if more commitment to the least-advantaged is required, the unwillingness of the better-off to work toward the least advantaged will end up with a new scenario q, which makes the latter worse than they are in p.

(5) Therefore, the better-off can argue that in order to work toward the greatest benefits of the least advantaged, they should stick with their p , which realizes the two principles of justice

On the other hand, consider another situation:

(1) Suppose people in a society has a very robust egalitarian ethos.

(2) This society has a glaring level of inequality, and the least advantaged are very badly-off.

(3) Based on reflective equilibrium, therefore, people conclude that justice require more benefits to the least-advantaged in this society.

(4) Given the very robust egalitarian ethos, the willingness and/or happiness of the better-off to work toward the least-advantaged will result in a new situation r , which makes the disadvantaged better off than they are in p .

(5) Therefore, the better-off can argue that they should strive toward r , which realizes justice as fairness.

For p , q , and r , it is r that works toward the greatest benefits of the least advantaged and thus fulfills the difference principle. Interestingly, Rawls would conclude that egalitarian p also fulfills the two principles, but why it should be concluded this way? Instead, why it shouldn't be concluded that p fails to realize justice? The two different conclusions arise because the difference principle is interpreted in different ways. In the first case, the difference principle is realized *given* people's acquisitive or unequalizing incentives. In the second case, the difference is realized just based on its textual interpretation *independent of* any incentive other than the sense of justice, and according to this version, "inequalities are necessary only when they are

strictly necessary.”¹⁶⁶ Cohen may call the first and second types of difference principles as the lax and strict readings of the difference principle.¹⁶⁷ According to these definitions, people’s incentives derived from their material conditions affect the content of justice in the lax reading but not in the strict reading. Then the next question is whether people’s incentives should affect the content of justice, given that human nature is organized in such a way that combines both selfish and other-regarding interests. In the discussion of Cohen’s argument regarding the sphere of justice, I conclude that higher levels of justice requires a stronger egalitarian social ethos, but I do not show that whether an egalitarian social ethos determines the content of justice. If it does, and the robustness of such an ethos varies among people, then the content of justice will be arbitrary. It might also be argued that given human nature is organized in such a way, it is justifiable for this nature, which includes self-interested incentives, to affect the content of justice. Otherwise, justice as fairness means nothing to human nature. Following from this argument, however, the divergence between the level of justice and the realization of justice emerges again.

I would argue that to converge the level of justice and the realization of justice, the content of justice should be independent of people’s incentives, more specifically, incentives from material conditions. Moreover, the content of justice should be prior to people’s incentives, and then people should be equipped with a robust egalitarian ethos to conform to justice. As the content of justice is derived from public reason, which is a part of human nature, the content of justice in its purely textual form does not deny human nature. After the purely textual content of justice is determined, the public reason engenders the sense of justice and/or the robust

¹⁶⁶ G. A. Cohen, “The Incentives Argument” in *Rescuing Justice and Equality*, Cambridge, MA and London, England: Harvard University Press, 2008, 69.

¹⁶⁷ Ibid., 68-73.

egalitarian social ethos for species-being, which motivate people to conform to justice. In this sense, the public reason is prior to any incentive and thus does not permit any incentive to affect the content of justice. It follows that the egalitarian social ethos comes after the public reason and only consolidates and reinforces the content of justice rather than alters the content of justice. To put it simply, reason is prior to passion.¹⁶⁸ The public reason functions as the guide, and the sense of justice and/or egalitarian social ethos as the highest-order desire that regulates acquisitive and unequalizing incentives in human nature, and the sense of justice and/or egalitarian social ethos are not at variance with human nature. In this way, the requirement of justice does not deny human nature but regulates and refines it.

If human incentives should not affect the content of justice, then the lax difference principle is ruled out. In fact, when people have such acquisitive and unequalizing incentives, the two principles of justice that they affirm only achieve political emancipation rather than human emancipation, and they merely affirm the rights of man rather than the rights of citizen. “Run as fast as they can” to satisfy their unequalizing incentives is equivalent to being preoccupied with egoistic interests, which separate people from their general interests. With the lax difference principle and unequalizing incentives, people in public spheres of interaction obey laws and recognize the demand of justice from the basic structure only, thus only respecting the rights of man for its fellow citizens. In civil society and private life, their acquisitive actions only benefit themselves and those involved in their market transactions rather than others least advantaged.

¹⁶⁸ The metaethical debate between reason and passion has lingered in philosophy for thousands of years. While I believe in the supremacy of reason for a Kantian justification, I would presuppose the priority of reason over passion in this paper. When formulating justice as fairness, Rawls arguably also adopts a Kantian framework, shares this point, and views this metaethical question settled for his project. See Rawls, *A Theory of Justice*, 221-227; John Rawls, “Kantian Constructivism in Moral Theory,” *The Journal of Philosophy* 77, no. 9 (1980): 515-72. Accessed May 10, 2020. doi:10.2307/2025790.

They work for just themselves or pursue ends just for themselves but not for other people as fellow citizens. If they confront the least-advantaged and try to publicly justify their actions, their message will sound very troubling or implicitly threatening. To justify their actions, they might say that “you guys can of course be better off, provided that we earn so much more than you guys,” or “we are not willing to work as hard when you guys try to better yourself through this or that public means. In these cases, you guys will be worse off, so think about that.”¹⁶⁹ This justification shows that the underlying unequalizing incentive is a blatant disregard of the general interest. It only respects the egoistic interests of the better-off rather than the general interest of the political community, or the better-off acting in this way is contrary to the spirit of a political community. Thus, people choosing the lax reading of the difference principle with a corresponding unequalizing incentive are not species beings. People who abide by the lax difference principle at most achieve political emancipation rather than human emancipation.

The lax reading of the difference principle is rejected, so shall we choose the strict reading of the difference principle? After evaluating the connection between the content of the difference principle and people’s public reason and human incentives, I also reject the strict reading difference principle because reason does not specifically determine the passion, namely, the exact sense of justice, or *how much* egalitarian social ethos for the species-being. The content of the difference principle that flows from public reason does not make the exact form of egalitarian social ethos or *how much* egalitarian social ethos clear enough, and the unclear social

¹⁶⁹ G. A. Cohen formulates a kidnapper argument as an analogy: (1) Children should be with their parents. (2) Unless they pay him, this kidnapper will not return this child to its parents. (3) So this child’s parents should pay this kidnapper. If we substitute “children,” “with their parents,” and this kidnapper” with “the least well-off,” the argument would still be valid, just with some language modifications to make sentence flow; Cohen, *Rescuing Justice and Equality*, 39; see also Narveson, Jan. 1978. Rawls on equal distribution of wealth. *Philosophia* 7: 281–292.

ethos makes the exact content to be realized unclear. The unclear form of the egalitarian social ethos is possible because Rawls or Rawlsians do not seek to eliminate morally arbitrary inequality when the reasoning to the difference principle is carefully examined.

Why can different moral psychology emerge from the Rawlsian framework? Leaving the basic-structure distinction aside, another answer arguably lies in the content of the incentive-independent difference principle itself. If justice as fairness requires a robust egalitarian social ethos, the question is how robust or *how much* the egalitarian ethos should be. The difference principle even in its strict reading fails to answer this question. If reason gives a law, then the passion or incentive that reinforces this reason and makes people conform to this law should be clear or at least clear enough. For instance, if the moral law given by reason says “you shall not lie,” then of course the awe to this law, which is arguably the passion or incentive in this case, would be very clear, which is the awe to not lie, and this awe should trump every other incentive to lie because of the inviolability of the moral law. However, this is arguably not the case for justice as fairness. Public reason determines the content of justice and gives rise to the sense of justice as the ethos. Interestingly, the content of the difference principle contains at least two elements that require different types of incentives. One is the acquisitive incentive that tends to generate inequality, as the difference principle presupposes that inequality naturally arises in markets. The other is the egalitarian incentive, as required by the requirement of the commitment to the least well-off. The egalitarian social ethos is a something higher than the two: it accepts both self-interested motive and the commitment toward equality. Nevertheless, *how much* commitment and self-interest should be mixed together is unclear. This is what distinguishes from the case of justice as fairness and the case of the moral law about lying. People abide by the two principles of justice only if they have the sense of justice and the egalitarian ethos as the

highest order of desire. But the content of the difference principle does not answer the “how-much question,” the corresponding sense of justice and the egalitarian social ethos thus also lack clarity in terms of “how strong” and/or “how much.” By mingling the two incentives and becoming something higher, it is unclear what the egalitarian social ethos leans toward, and what specific distribution it should aim to strive toward. Without answering the how-much question, the ratio between the two incentives, or the amount of commitment to equality and the amount of acquisitive ethos would be too arbitrary. That is what I think another reason that the acquisitive incentives and egalitarian ethos are both incorporated in the Rawlsian framework, and all bizarre such as the inconsistency between the level of justice and the fulfillment of the two principles arise accordingly, such as the inconsistency between the level of justice and the fulfillment of the two principles.

The unclear answer and unclear way to mix the two incentives can be attributed to another problem of the difference principle, which Cohen points out that does not eliminate all morally arbitrary inequality. When formulating the second principles, Rawlsians argue that benefits and disadvantages on the basis of difference that people are not responsible should be corrected, thus justifying negative equality of opportunity.¹⁷⁰ After correcting this type of morally arbitrary benefits and disadvantages, socioeconomic classes and conditions also contribute to inequality, which people are not responsible or just partly responsible, thus justifying fair equality of opportunity.¹⁷¹ After correcting class-induced inequality, the inequality

¹⁷⁰ Negative equality of opportunity here means the absence of barriers to competition for places in the social and economic hierarchy, so that anyone can rise to a position for which he is qualified.” This is arguably what Rawls calls the principle of “careers open to talent” in his initial formulation of the two principles of justice; see Thomas Nagel, “Rawls and Liberalism” In S. Freeman (Ed.), *The Cambridge Companion to Rawls*, Cambridge Companions to Philosophy, Cambridge, MA: Cambridge University Press, 68-69, doi:10.1017/CCOL0521651670.002.

¹⁷¹ Ibid., 78-79.

in natural ability also results in social and economic inequality, which people are not responsible or entirely responsible, thus justifying not this or that equality but the difference principle, which affirms a qualified form of inequality.¹⁷² Nevertheless, the above reasoning toward the difference principle arguably contains the implicit premise that morally arbitrary inequality should be fully corrected, but it is unclear why the inequality in natural talents does not justify a full correction of morally arbitrary inequality. In other words, the derivation of the difference principle is not derived from consistent reasoning. If Rawls or Rawlsians apply the consistent reason to correct the influence of all morally arbitrary factors, he should conclude a principle with more commitment to equality than the difference principle.¹⁷³ In this regard, a simple but a better alternative can be formulated in the following way. If inequality resulted from the arbitrary mix of unequalizing and egalitarian incentives, and the resultant socio ethos results in morally arbitrary inequality that we feel uneasy, then the what makes us uneasy is simply more robust commitment to equality: “a society should have general social and economic equality,” or “a society shall not accept too much social and economic inequality.”¹⁷⁴

It might be objected that Rawls comes up with the difference principle for practical reasons. For those reasons, the general economic equality is not always feasible, so the difference principle and its lexical order below the fair equality of opportunity are justified. For example, it might be the case that society lacks enough forces of production, or the better-off really need special incentives to perform certain types of arduous work. Nevertheless, even if this reason for the difference principle is accepted, albeit temporarily, then it is something like a difference principle with respect to fair equality opportunity and its lexical order should be

¹⁷² Ibid.

¹⁷³ Cohen, “*The Difference Principle*” in *Rescuing Justice and Equality*, 162.

¹⁷⁴ Cohen, “*Facts*” in *Rescuing Justice and Equality*, 259.

accepted, rather than the more robust commitment to fair equality of opportunity as stated in the first part of the second principle of justice. Rawls concludes only the lexical order, rather than a difference principle for fair equality of opportunity. Thus, even if the practical-reasons-objection is granted, it still cannot eliminate the inconsistency in the Rawlsian reasoning.

More importantly, the practical-reasons-objection should not be accepted because the content of justice as moral foundations of social institutions and market should not be contingent on practical circumstances. The content of justice should be moral ideals worthy of collective endeavor, and feasibility might be another question from ideals. In practice, the content of justice may not be realized for other values such as efficiency. In fact, one can argue that strictly speaking, justice is never feasible. For instance, different ways of raising children generate somewhat different opportunities, and people's different aspiration require different opportunities, which can hardly be equal in society. Nevertheless, the constraint of feasibility by other values or different circumstances should not be the reason against the content of justice as the moral foundations of human emancipation that people should believe in and strive toward.

To put it differently, the ideal of justice or human emancipation is about "ought," and feasibility is about "can." According to the famous Kantian notion that "ought implies can," as a society cannot realize justice, it ought not adopt this view of justice but something more feasible. Nevertheless, this interpretation of the Kantian notion rests on an misunderstanding. "Cannot" only justifies the acceptance of another ought *for the sake of practicality*, but it never constitutes the reason to reject the unattainable ought as the ultimate principle to believe in. It might be the case that one cannot do A, but "cannot do A" is not a sufficient reason to "not endorse A." It would be absurd to reject a "ought" just because one cannot do it. A case can illustrate this

point. While the market reform in China may make many think that China repudiates communism. In reality, China never repudiates communism but just believes that realizing communism presupposes the full development of capitalism. For the sake of practicality, the Statism of Chinese government chooses the capitalist way of market reform and hopes to fully develop capitalism in order to destroy it.¹⁷⁵ This analogy still applies to the content of justice. If justice requires very robust equality, then the equality should be the moral foundations worthy of citizens' belief in a community. The infeasibility of justice for whatever reasons may justify structures, policies, and acts other than justice, but infeasibility shall not constitute the reason to reject the belief of egalitarian justice and attempts to come infinitely close to justice.¹⁷⁶ Moreover, as we will see in Part II, after examining the socioeconomic and legal structures of the Social Economy of human emancipation, perhaps the practical-reasons-objection is arguably overstated, and the ideal of justice, or what I will soon formulate as the public ideology of human emancipation, or at least a general approximation of this ideal, is much more feasible than we may intuitively realize.

As illustrated, acting like species beings requires a very robust egalitarian ethos as the moral psychology of justice, which can only be determined by a stronger principle with more commitment to equality. A more egalitarian alternative like “a society should strive toward

¹⁷⁵ Xiaopin Deng. “Communique of the Third Plenary Session of the Eleventh Committee of the Communist Party of China,” “Build Socialism with Chinese Characteristics” and “Uphold the Four Basic Principles” in *Sources of Chinese Tradition: Volume Two: From 1600 Through the Twentieth Century (Introduction to Asian Civilizations)*, compiled by William Theodore de Bary. New York, NY: Columbia University Press. Kindle Edition. 488-509.

¹⁷⁶ Cohen critiques that what Rawls formulates is not a theory of justice but a regulative idea for social institutions. He distinguishes between the “Fundamental Principles” and “Rules of Regulation”: the former formulates moral truths with people’s ultimate conviction, while the latter is a “social instrument” by the government or society to regulate affairs. Because of multiple values such as fairness, efficiency, feasibility, and the like, rules of regulations often serve multiple values and are grounded in factual constraints. A Fundamental Principle, however, is truth by itself without serving another value and bounded by empirical constraint, see Cohen, “*Facts*” in *Rescuing Justice and Equality*.

general economic equality,” or “a society shall not accept too much inequality” may suffice for the sake of species being, the affirmation of rights of citizens, and the realization or at least approximation of human emancipation. It is important to point out that some may argue for the difference principle for other reasons. Unfortunately, for the sake of the paper, I cannot do proper justice to these arguments within short spaces. What I shall attempt to show is merely that the difference principle at most realizes political emancipation rather than human emancipation and also to some extent disregards political community. Thus, I switch to more egalitarian alternatives to realize human emancipation, which is the objective of Part I.

I can anticipate some natural questions: what counts as general socioeconomic equality? how much inequality is too much? If justice is all about equality, then what role do choice, desert, and merit play?¹⁷⁷ If the difference principle fails to strive toward human emancipation, why can a more egalitarian alternative do so? Indeed, the proposed egalitarian alternative should be formulated with a clearer meaning. The arguments above show more commitment to equality is necessary, but it does not illustrate that justice is all about equality. Suppose there are two periods t_1 and t_2 . If all morally arbitrary inequality is eliminated at t_1 , then what follows is just a matter of personal choices at t_2 . Even if there is some forms of inequality at T_2 , this type of inequality is perfectly acceptable because it reflects people’s choices given the equal playing field. In this regard, a clearer formulation of “general economic equality” or “not too much equality” should incorporate three goals: “the moral equality of persons, mitigating the effects of morally arbitrary disadvantages, and accepting responsibility of our choices.”¹⁷⁸

¹⁷⁷ Will Kymlicka, “Liberal Equality” in *Contemporary Political Philosophy*, Oxford, England: Oxford University Press, DOI: 10.1093/hepl/9780198782742.001.0001;
See also Arneson Richard “Justice Is Not Equality.” *Ratio* 21, no. 4 (2008).

¹⁷⁸

In this regard, I find Ronald Dworkin's model of Equality of Resources as a stronger candidate for the egalitarian principle. Dworkin argues that a scheme of distribution should be "ambition sensitive" and "endowment insensitive."¹⁷⁹ He starts with a thought experiment of auction. On an island, everyone is endowed with enough and equal number of clamshells, which they can use to bid any resource on this island to pursue the life they want to lead. After the auction, everyone's distribution will be "equal" in the sense that no person will envy another's set of holdings because they already have necessary resources to enable them to pursue ends they set for themselves.¹⁸⁰ Even though people may end up with different number of holdings and income, it cannot be said that they are not equal because everyone has necessary resources, and thus everyone is treated with equal concerns and equal respect. Envy test is used to see if one person envies another's bundle in order to test whether equality is reached.¹⁸¹

Equality, or what Dworkin tests against, is arguably a straightforward principle, which he defines as equality: "social resources devoted to the life of each person is determined by asking how important the resources are for others."¹⁸² This could be an ultimate principle of general economic equality. People who follow this principle would examine the legitimacy of their holdings against 1. What's rightly his; 2. What life he should lead, 3. The burdens that his pursuit of such a life imposes on others, and 4. The responsible choices that he and his fellow citizens make.¹⁸³ In this way, Dworkin believes that by conforming to this principle, a society can share its resources sensitive to the 1. The tastes and ambitions of the people who get the resources, and

¹⁷⁹ Kymlicka.

¹⁸⁰ Ronald Dworkin, "Equality of Resources" in *Sovereign Virtue: The Theory and Practice of Equality*, Cambridge MA and London, England: Harvard University Press, 65-71.

¹⁸¹ Ibid.

¹⁸² Ibid., 70.

¹⁸³ Kymlicka; Michael Green, "Dworkin's Auction" and "Dworkin and the Social Safety Net," lecture notes of *Freedom, Markets, and Well-Being* at Pomona College.

2. The tastes and ambitions of the people who do not get the resources.”¹⁸⁴ Because citizens pursue their ends by considering how their personal pursuit and aspiration in relation to those of others, it can be said that they are exercising their own “social powers” of the species being, and citizens in this aspect thus become “the abstract citizens” in everyday life, work, and relationships without being dominated by their egoistic interests and acquisitive ethos . They organize both their entitlements and social resources not only for their own sake but also for the prospect of a flourishing life for their fellow members in the political community. Therefore, the principle of Equality of Resources is a better alternative than the difference principle as part of the public ideology for the rights of citizens and human emancipation.

It is important to point out that like fair equality of opportunity, equality of resources is an ideal that cannot be completely realized but can only be generally approximated. In order to illustrate this point, it is necessary to apply Dworkin’s theory in scenarios in the real world. Dworkin’s theory is too complex to be completely explained briefly, so I just focus on the gist of his ideas. In real life, some circumstances cannot be fully equalized, and thus the envy test cannot be met again. For instance, for some disabled people or people with incurable disease, it is impossible to make them have resources to lead their life.¹⁸⁵ Either an infinite amount of resources is needed to equalize his or her unfortunate situations, or all resources in society should be devoted to equalize this person’s circumstance but still fall short. Doing so is like accelerating a spaceship to the speed of light, which as an impossible task because it requires an infinite amount of energy, and even using all energy in the universe to accelerate is still not enough. Moreover, doing so would make others the slave to their talents because they would have to

¹⁸⁴ Ibid.

¹⁸⁵ Dworkin, 77-82.

work to pay for this end in order to pursue their own ends.¹⁸⁶ Therefore, insistence on fully equalizing morally arbitrary circumstances conflict with moral equality of persons and the responsible choices people make to pursue their ends. To borrow some Marxist expressions, rather than realizing the association, in which “free development of each is condition free development of all,” a blind pursuit of free development of some may become the condition of constraint on free development for some.¹⁸⁷ To approximate equality of resources, what shall be chosen instead is a hypothetical insurance, under which everyone pays the premium against the average risk of being in unfortunate situations.¹⁸⁸

What would be the real-world equivalents of this hypothetical insurance that best approximates equality of resources? In the real world, it is more complicated for various reasons. For instance, it is unclear what counts as natural advantage and disadvantage, and how to measure them. It is unclear how a compensation can be implemented given in this background. Moreover, even if people who are at equal starting lines, they can turn out to have different levels of skills after their choices, and some of them can choose to develop them even higher. While this may generate inequality that does not meet the envy test, this difference should not be equalized because they are partly attributed to people’s choices. For these reasons, equality of resources is even more impossible in the real world than the world of hypothetical insurance. What can be done is a rough equality of resources, which Dworkin argues could be something like a social minimum, which insures against failing to earn a certain level of income and progressive taxation.¹⁸⁹ It is important to emphasize that given equality of resources can only be

¹⁸⁶ Ibid., 85-92.

¹⁸⁷ Marx and Engels, *Manifesto of the Communist Party*, 491.

¹⁸⁸ Dworkin, 73-83.

¹⁸⁹ Ibid., 74.

approximated, the focus is not whether some policies or programs fail the envy test because all of them will fail, strictly speaking. The key point is whether some alternative approaches can do better.

As we shall see in Part II, progressive income tax in labor and non-labor income, universal capital endowment, and basic income are incorporated as parts of the socioeconomic structures of Social Economy, although they are far from exhausting all necessary structures that correspond to the public ideology. While Dworkin thinks that his social insurance and progressive taxation are the socioeconomic structures, the discussion of socioeconomic and legal structures is left to Part II. Dworkin's approach is sometimes regarded as welfare egalitarianism or welfare liberalism, but I would argue that given the capitalist accumulation, what equality of resources as requires is a social system that even beyond welfare egalitarianism. This view is also shared among some scholars.¹⁹⁰

What I shall discuss now is how does the limit to realize equality of resources relate to the problems of capitalism discussed. To equalize circumstances due to morally arbitrary inequality because of structural forces of capitalism, Dworkin's model does not seem impossible in practice. To affirm equal moral standing of every person, rectify morally arbitrary inequality, and respect people's responsible choices, Dworkin seems to argue that equalizing morally arbitrary inequality due to natural disadvantage or inequality due to responsible choices is either impossible or conflicting some goals for the sake of the other.¹⁹¹ Nevertheless, the target in this paper is different: morally arbitrary inequality due to the dynamics inequality in capitalism, which is essentially inequality in both resources and social power between capitalists and other

¹⁹⁰ See Kymlicka.

¹⁹¹ Ibid.

citizens. It seems that correcting this scenario is not another equivalent of accelerating a spaceship to the speed of light. Unlike natural disadvantage in real life that cannot be pinpointed, who has productive resources, who has more economic, social, and political power, and who can exploit and take advantage of proletarians' vulnerable situations, and whose organizations negatively affect the public interests, are crystal clear under capitalism. With regard to correct the wrongs of capitalism, Dworkin's model is arguably adequate in terms of distributing resources. Here I am not claiming that I am ignoring people with natural disadvantage. Indeed, this issue is also important to consider. But we cannot solve all problems, we should do instead prioritize and solve the most important problem. If 20 percent of factors account for 80 percent of severity of caused by all problems, it would be reasonable to prioritize that 20 percent of factors. I think the 20 percent is the appallingly unequal circumstances under capitalism, rather than some unequal circumstances due to natural disadvantage. In this regard, Dworkin's equality of resources does not seem so unrealistic. Namely, regarding equalizing resource and social power, by embedding Dworkin's model of equality of resource, the public ideology can eliminate, rather than mitigate, alienation, thus realizing, rather than approximating, human emancipation. I shall elaborate this view more fully in the next chapter and in Part II.

Thus, after injecting economic liberty as an equally important primary good, evaluating the difference principle and its resultant social ethos and incentives, and examining Dworkin's principle of Equality of Resources, I boldly reformulate Rawls's two principles of justice as follows:

First Principle: Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

Second Principle: Social and economic inequalities are to satisfy two conditions:

- a. They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity*;
- b. Social resources devoted to the life of each person is determined by asking how important the resources are for others (*equality of resources*).¹⁹²

Thus, I finish formulating the public ideology of human emancipation. Before we jump in to Part II to respond to Marx by answering the question of “how to do it” and examine how to apply this public ideology into this practice, some important areas still need to be addressed. Just as Hayek voices forceful objections to Marx’s solutions, and Nozick argues strongly against Rawls, some pro-market objections to this public ideology are arguably inevitable, particularly in countries with strong capitalist ethos such as the United States. Moreover, some may question why the public ideology just formulated is the ideology of human emancipation. How does this ideology resolve “exploitation and thus alienation? Don’t capitalists still extract surplus values from workers under this ideology? In the next chapter, I shall explain why the formulated public ideology above is a rightful candidate of “the public ideology of human emancipation.” In doing so, I shall respond to these questions by trying to defeat libertarian’s defense of capitalism from their own grounds, showing two understandings of exploitations based on two different ideas of self-ownership and the “species-being and thus kingdom of ends,” and arguing why the latter can eliminate “exploitation and thus alienation,” while the former would contradict itself if it tries to eliminate exploitation according to the standard it sets.

¹⁹² Leif Wenar.

Chapter III – Liberty and Duty

“The only difference as compared with the old, outspoken slavery is this, that the worker of today seems to be free because he is not sold once for all, but piecemeal by the day, the week, the year, and because no one owner sells him to another, but he is forced to sell himself in this way instead, being the slave of no particular person, but of the whole property-holding class.”

- Fredrich Engels, *“The Condition of the Working Class in England in 1844,”*
1845

It seems that there are always two camps of equality and markets in society. When you are for equality, another says that you do not respect free market. When you defend market, another says you disregard the community. When you say species-being, another says self-ownership. It seems that a common ground is exceedingly to find. But what if we try to delve in to the other camp’s value to see what it truly leads to?

In case of any pro-capitalism or pro-market friends not interested in reading any further, I shall respond to the issues raised in at the end of the last chapter. First, just like Hayek opposes Marx, and Nozick opposes Rawls, objections to the public ideology by libertarians are arguably inevitable, as they will argue that the public ideology formulated in the last chapter violates fundamental human dignity of self-ownership or use some people for the sake of others. They say that self-ownership is paramount and unalienable regardless of any reason. Second, for people sympathetic to the ideal of human emancipation, they may ask how the public ideology eliminates alienation, if objective alienation is “exploitation and thus alienation,” as explained in Chapter I. They may question why this ideology is an ideology of human emancipation. Don’t capitalists still extract surplus values from laborers?

I find it indispensable to address these to objections not only because many people have strong capitalist ethos rather than egalitarian ethos or the sense of justice in today’s society, but

also because these two objections are intricately linked in order to illustrate why the public ideology is indeed the ideology for human emancipation. Regarding the first question, I shall argue that, surprisingly, the idea of liberty, which is taken as self-ownership, actually condemns capitalism rather than justifies it. It should be emphasized that this objection is based on libertarians' own grounds rather than species-beings or the rights of citizens. After briefly explain Nozick's argument in the first section, I shall try to argue that if you believe in self-ownership, you shall conclude that capitalism is partial slavery in the second section. Because libertarianism condemns any form of slavery, libertarianism should also condemn capitalism.

After this argument, we shall see why the two objections or questions are intricately linked, and it is the libertarian school, rather than "human emancipators," who tend to raise the second objection. The second question highlights the issue of different understandings of "exploitation and thus alienation." Based on self-ownership, exploitation refers to the appropriation of surplus value, whereas based on other ideas such as species-being and/or the kingdom of ends, exploitation refers to taking advantage of discrepancy in social and economic power. To illustrate why the public ideology is indeed the ideology of human emancipation that eliminates "exploitation and thus alienation," in the third section, I shall first argue that we should restrict the idea of self-ownership by more important values such as humanity as ends in itself and choose the second understanding of exploitation. I shall then argue that the public ideology is indeed capable of eliminating the second type of "exploitation and thus alienation," based on the idea of species-being and/or the kingdom of ends; therefore the public ideology just formulated is indeed the ideology for human emancipation.

To explain these arguments fully, it is necessary to revisit the idea of libertarianism. As the various schools of libertarianism cannot be adequately commented in this paper, I primarily

focus on Robert Nozick. After all, the focus of my analysis is the idea of self-ownership, which has important implications for the understanding “exploitation and thus alienation” and the entailed social system.

I. “From each as they choose, to each as they are chosen”

Like Hayek, Nozick defends capitalist free markets, but his opposition against state actions is even stronger. He argues that individuals have rights, including the right to their selves, their labor, and their property. Nothing should be done to violate such rights. Injuring a person or taking away his or her property for any reason necessarily exerts claims over their selves, their labor, and their property, thus violating their rights, unless others have this person’s consent, or doing so is necessary to rectify historical injustice to someone else’s property. Taxing someone’s property for redistribution and thus violates their rights. For this reason, unless the taxed person gives his or her consent, Nozick is against any type of any attempt that includes taxation for redistribution, which includes the public ideology.

Nozick argues that to justly hold property, a person has to fulfill the entitlement theory, which has three principles as follows:

“1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.

2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.

3. No one is entitled to a holding except by repeated applications of 1 and 2.”¹⁹³

¹⁹³ Robert Nozick, *Anarchy, State, and Utopia*, New York, NY: The Basic Books, original edition published in 1974, 2013, 151.

It is important to note that at the beginning of Chapter 7 of *Anarchy, State, and Utopia*, Nozick does not specify the meaning of both the principles of justice in acquisition and transfer until later in this chapter. Justice in transfer is relatively easier to formulate: any transfer is just if and only if it is carried out via voluntary exchanges with transactional parties' consent. The proper understanding of Nozick's third principle is the following: the third party has no claim in the property that comes about after such exchanges unless with the transactional parties' consent. I shall discuss the justice of acquisition when I explain Nozick's proviso, which will be evaluated thoroughly after I explain how Nozick taxation for any purpose is equivalent to forced labor.

Nozick calls these principles three just steps. He also argues that "whatever arise from a just situation by just steps is itself just."¹⁹⁴ Each of these step is justice-preserving, and the conjunction of acquisitions and transfers in accordance with these steps is just. Any distribution that follows from just steps does not need to be rectified. It is only when people come to own things through unjust steps, the rectification of injustice should be triggered.¹⁹⁵

Nozick also defines some key terms to illustrate the difference between his theory of entitlement and other egalitarian theories. He says that historical principles are principles that examines how justice or injustice comes about and determines whether it is necessary to restore justice. Historical principles are also unpatterend principled because the justice of distribution according to its standard is not weighted against along some metrics or what Nozick calls "natural dimension." The other type of principles is time-slice principles or end result principles, any of which specifies a distribution according to "some natural dimension, weighted sum of natural dimensions, or lexicographic ordering of natural dimensions."¹⁹⁶ After defining these

¹⁹⁴ Ibid., 151.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid., 153-154.

terms, Nozick says that almost every principle of distributive justice is paterend: “to each according to his moral merit, or needs, or marginal product, or how hard he tries, or the weighted sum of the foregoing, and on.”¹⁹⁷ He also says that his entitlement theory is historical and unpaterend principle because at the most overarching societal level, it does not specify a distribution in accordance with some standards. What it aims to protect is only people’s the just holdings that flow from just steps in people’s acquisition and voluntary transfer, or simply “individual aims of individual transactions.”¹⁹⁸ He encapsulates his principles to a simplistic line “from each as they choose, to each as they are chosen.”¹⁹⁹

Nozick also argues any principles of distributive justice, which includes the public ideology, cannot maintain their patterns by themselves. Trying to restore their patterns inevitably involve injustice to people’s just holdings that follow from just steps and violate/ people’s liberty to choose. For any principle of distributive justice, suppose that it determines a certain pattern called D1 that it deems just, and we also have Nozick’s entitlement theories, which justify people’s voluntary exchanges, voluntary exchanges inevitably turn D1 into a different distribution called D2. D2 follows from jus steps, which entail that people have no claim what others have under D2 unless with the latter’s consent. From it follows that if the state as the third party taxes its population to restore the pattern under D1, the states then exerts a claim of what justly follows from the conjunction of just acquisitions and transfers from its population.²⁰⁰ Nevertheless, Nozick opposes any restoration of patterns like this because it involves the third party’s continuous interference with people’s lives and violations of people’s rights.”²⁰¹ To

¹⁹⁷ Ibid., 156.

¹⁹⁸ Ibid., 159.

¹⁹⁹ Ibid., 160.

²⁰⁰ Ibid, 161-163.

²⁰¹ Ibid., 163.

restore such pattern, the state must intervene and violate people's voluntary exchanges. As Nozick says, "taking the earnings of n hours labor is like taking n hours from the person; it is like forcing the person to work n hours for another's purposes."²⁰² Through taxation, the state becomes a "*part-owner*" of its population, has a property right in its population, and makes decisions with regard to uses of people's property without people's consent.²⁰³ Therefore, Nozick reaches a surprising conclusion that taxation is equivalent to forced labor. The key point is that taxation for redistribution necessarily involves "morally impermissible available means" and violates what Nozick calls "moral side constraints," which I shall explain very soon and dissect further at the end of this section.²⁰⁴

It is important to point out that two implicit notions that underlies Nozick's criticism to the constant interference and violations of rights by the state is the self-ownership and the Kantian ethics of people as ends as the moral side constraint, which Nozick considers the paramount. For one thing, self-ownership, the foundational idea of any libertarian theory including Nozick's rights libertarianism, can be defined as the following: one has the full right over his own person, labor that flows from his person, and possessions that flows from his labor and thus flows from his person. Others have no claim over such right unless with this person's consent. This concept is also implicit under the entitlement theory because without self-ownership, it is uncertain whether something else can justify the use of labor in just acquisition and just holdings that come from voluntary transfer, and it is unclear whether others can exert a claim on what follows from just steps. On the other hand, by moral constraints, Nozick arguably means the Kantian ethics of humanity as end in itself, which entails that people are and should be

²⁰² Ibid., 169.

²⁰³ Ibid., 172.

²⁰⁴ Ibid., 168 and 172.

treated as ends in themselves rather than merely as means.²⁰⁵ When a distributive state redistributes according to its principle and tries to work toward or restore a certain pattern, Nozick argues that the state necessarily uses some persons' property, fruit of labor, and their persons as mere means for others' purposes without their consent. I shall critically evaluate the relations between these two notions later in this section.

After these discussions, Nozick then specifies the meaning of the principle of justice in acquisition. He argues that the key point is whether one's appropriation "worsens the situation of others."²⁰⁶ In this regard, Nozick modifies Locke's proviso of justice in acquisitions, which says that one should mix it one's labor with external things and ensure that there is "enough and as good left in common for others."²⁰⁷ Nozick points out, however, that this proviso would not solve a problem of an infinite regress. For person Z, if the last person Y appropriates in a way that that leaves Z "without his previous liberty to act on an object," then it must be the case that Y did not appropriate in a way in accordance with the Lockean proviso.²⁰⁸ Y appropriates in this way because the next last person X appropriates in a way at variance with the Lockean proviso, so the same can be said about the next last person X, who appropriates in a way that worsens Z's situations. The same reasoning can be reiterated to the first appropriator A.

Nozick modifies Locke's proviso by discussing two constraints as the following. As the key is not to worsen the situation of others, Nozick defines how one's situation may be worsened by another's appropriation. First, one's appropriation makes others "[lose] the opportunity to improve his situation."²⁰⁹ Second, others are not able to use freely (without appropriation) *what*

²⁰⁵ Ibid., 33-35.

²⁰⁶ Ibid., 175.

²⁰⁷ Ibid,

²⁰⁸ Ibid., 176.

²⁰⁹ Ibid.

he previously could after one's appropriation.²¹⁰ Nozick states that at a stringent requirement would include both two constraints, and a weaker requirement would include only the second constraint but not the first. Namely, he formulates the proviso as follows: one should appropriate in ways such that "others no longer at liberty to use the thing" is not thereby worsened, or one may violate the part above but compensates those affected to ensure that "so that their situation is not thereby worsened;" namely they can still use what they previously could.²¹¹ The neo-Lockean or Nozican proviso does not entail that one has to appropriate in ways that do not limit others' opportunities to appropriate because doing so excludes only the first definition of worsening others' situation but not the second. To put it simply, Nozick regards people's situations when external resources are unowned by all as the baseline of comparison. To summarize, one may legitimately acquire an external object if and only if such appropriation at least does not worsen the situation of others to use what they could previously, or the appropriator gives compensations that others consider at least having equal value with the value of what they could otherwise have appropriated and used that object.

For convenience, Nozick's argument can be stated as follows:

- (1) People have self-ownership in the sense that they have rights over their selves and anything that flows from the selves including their labor and fruits of labor.
- (2) Others have no claim over a person's self-ownership unless with this person's consent.
- (3) If a person violates the other's self-ownership, the former also treats the latter as a mere means not as end.
- (4) A person may be entitled to holdings if the holdings come about in accordance with these principles:

²¹⁰ Ibid.

²¹¹ Ibid., 178.

(4) 1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.

The principle of justice in acquisition (The Nozican proviso): one may legitimately acquire an external object if and only if such appropriation at least does not worsen the situation of others to use what they could previously, or the appropriator gives compensations that others consider at least having equal value what they could otherwise have appropriated and used that object.²¹²

(4) 2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.

The principle of justice in transfer: any transfer is just if and only if it is carried out via voluntary exchanges with transactional parties' consent.

(5) No one is entitled to a holding except by (repeated) applications of (4) 1. and 2.

(6) (4)1., (4) 2, and (5) are just steps, and whatever arises from a just situation by just steps is itself just.

(7) When people come to own things through unjust steps, the rectification of injustice should be triggered.

(8) Just steps above upsets any patterns set by any theories of distributive justice.

(9) For any theories of distributive justice, acting upon it to restore a pattern set by this theory necessarily exerts a partial claim of some people's property, their labor, and thus their own persons.

(10) Exerting the claim in (9) involves continuous interference with people's lives, treat these people as merely as means for others' purposes, and violate self-ownership.

Or put it another way, exerting the claim in (9) necessarily interrupts the repeated just steps and contradicts (1), (2), (3), and (5).

(11) Any theory of distributive justice is unjust and should be rejected.

II. Capitalism is Partial Slavery?

After laying out Nozick's argument, I can move on to respond to the first objection, which says that the public ideology violates people's fundamental liberty understood as self-ownership, which libertarians take as people's fundamental dignity. Pro-market rights libertarians may think that capitalism with a minimalist government is the society that we should defend rather than deviate from. Common intuition would tell us that what self-ownership entails is laissez-faire capitalist markets. While the first word is right, the last two words are not. Surprisingly, far from justifying capitalism, self-ownership actually condemns capitalism as partial slavery.

For the present purpose, I do not seek to refute Nozick's argument. Although it's an ingenious argument, I do think many steps can be attacked, and I will do so in the next section. In this section, what I try to show is to apply the idea of self-ownership to capitalist markets and to see what this application leads to. By using Marx's, Rawls's, and Dworkin's frameworks to argue against capitalism, pro-market people may not be convinced. Instead, by starting from something they can agree with and showing that capitalism is untenable even by libertarians' own grounds, things might be much easier. Moreover, doing so is instrumental to responding the second objection, which doubts why the public ideology is indeed the public ideology for human emancipation that eliminates alienation. As we shall see, the understanding of "exploitation and thus alienation" as the appropriation of surplus value stems essentially from the libertarian understanding.

Nozick wants to justify free markets in capitalism and the corresponding inequality. Nevertheless, I would argue that this argument does not apply to the capitalist economy, although Nozick thinks it does. Rather, I shall show why the capitalist economy undermines self-

ownership and even draws a presumably surprising conclusion that far from free, capitalist markets are partial slavery according to the notion of self-ownership.

Libertarians like Nozick argue that self-ownership has paramount value over anything else, and taking away individual's property is equivalent to forced labor, and "taking the earnings of n hours labor is like taking n hours from the person; it is like forcing the person to work n hours for another's purpose." While Nozick applies this critique to taxation, this argument also applies to capitalist exploitation and workers' alienation. As illustrated in exploitation and alienation as defined by Marx, as capitalists appropriate what flows from the labor of workers, workers do not own all that flows from their exercise of labor or socially necessary labor time. In this regard, we can also say that capitalists take the earning of n hours labor or take n hours from workers.²¹³ While just taking n hours labor does not show that capitalism undermines workers' self-ownership, the question is whether capitalists appropriate the fruits of labor with workers' consent. Without workers' consent, capitalists have no claim in whatever that flows from workers' self-ownership. With workers' consent, capitalists do have such a claim. Regarding this point, Nozick emphasizes that although "it is this crucial fact of nonaccess to the means of production that underlies exploitation, it follows that in a society in which the workers are not forced to deal with the capitalist, exploitation of laborers will be absent."²¹⁴

Perhaps Nozick should have said is that exploitation still exists, and laborers will agree to be exploited, because workers' consent does not undercut the dynamics of capitalist exploitation and accumulation. As exploitation still exists, alienation also exists. Nozick might argue that workers agree to be alienated. The key questions are thus whether workers actually consent to

²¹³ See G. A. Cohen, "Exploitation in Marx, What Makes it Unjust" in *Self-Ownership, Freedom, and Equality*, Cambridge, England: Cambridge University Press. Kindle Edition.

²¹⁴ Ibid., 254.

the modern capitalist markets, and whether such consent is morally justified. I shall address the first question here and the second when I discuss the relations between Kantian ethics and self-ownership in the next section.

I argue that workers are forced to consent to capitalists when I discuss Marx's theory of exploitation and alienation in the last chapter. I shall briefly reiterate the argument here because as I shall illustrate very soon, Nozick is not convinced by this argument. It might be argued that workers do in effect voluntarily consent to sell their labor and labor power to capitalists. They freely choose among different firms and sign contract with the firm that he or she likes. Nevertheless, a Marxist would not accept this explanation. For a Marxist or anyone who agrees with the Marxian²¹⁵ analysis of exploitation and alienation, those firms that workers can "choose" constitute a big conjunction, and this conjunction is just one choice named "capitalist firm." Workers have the other conjunction they can choose, which includes conjuncts such as starving, but this choice does not seem very reasonable compared with working for a capitalist firm. If a person chooses between to work for a capitalist firm or to starve, it would be reasonable for him or her to choose the former. Of course, for Marxists or Marx's friends, the most reasonable option such as becoming a species being or emancipate oneself is nonexistent and distant. Although in some firms workers can own shares and directly or indirectly participate in productive decisions, the number of these firms is very limited such that we can conclude generally, workers do not have such choices. Therefore, workers seemingly "consent," but they do not have other reasonable choices such that they can do nothing but suffer from resignation, which is not really consent, in order to make a living.

²¹⁵ Referred to "Marx's friends" hereafter.

This argument may convince lots of people, but it is not sufficient to convince Nozick. Interestingly, Nozick has very a stringent requirement of coercion, which I shall explain. Nozick admits that people's actions such as capitalists' acts of recruiting may limit one's opportunities, but he does not adopt the stringent requirement as justice in acquisition, and thus he does not worry about such limitations of opportunities. For Nozick, if people have *rights* to do a conjunction of actions, and they indeed exercise such rights with regard to this conjunction or parts of this conjunction, the person affected, whose opportunities are though restricted, is then not forced.²¹⁶ Namely, that a person is forced only if others do actions that restrict what he or she could do with what he or she owns previously, and others have no rights to do such actions.²¹⁷ To put it another way, G. A. Cohen succinctly summarizes, [a person] is forced to choose only if the actions bringing about the restrictions on his alternatives are illegitimate."²¹⁸

There are two approaches to defeat this argument. The first is to illustrate that Nozick is somewhat arbitrary to not choose the stringent requirement or other requirements as justice in acquisition aside. Explaining the relevant argument would take too much space and is not constructive for the main theme of this paper. So what I shall briefly touch upon is the main points of some critiques. For instance, Cohen argues that the Nozican Proviso would result in opportunity theft.²¹⁹ Left libertarians do not agree with the Nozican proviso and would argue that natural resources should be collectively owned, and a better Lockean proviso is required.²²⁰

²¹⁶ Ibid., 262-264.

²¹⁷ Nozick.

²¹⁸ Cohen, "Robert Nozick and Wilt Chamberlain: How patterns preserve equality" in *Self-Ownership, Freedom, and Equality*, Kindle Edition, Position 769-811.

²¹⁹ G. A. Cohen, "Against Capitalism," <https://www.youtube.com/watch?v=IJtSXkZQf0A>, accessed May 10, 2020

²²⁰ See Peter Vallentyne, "Left Libertarianism," *The Oxford Handbook of Political Philosophy*, Edited by David Estlund, June 12, DOI: 10.1093/oxfordhb/9780195376692.013.0008, accessed May 10, 2020; Hillel Steiner, "The Natural Right to the Means of Production," *The Philosophical Quarterly* (1950-) 27, no. 106 (1977): 41-49, accessed May 10, 2020. doi:10.2307/2218927; Michael Otsuka, "Appropriating Lockean Appropriation on Behalf of Equality" in *Property Theory: Legal and Political Perspectives*, Cambridge, England: Cambridge University Press, 121-137, <https://doi.org/10.1017/9781108500043.007>, accessed May 10, 2020.

The second approach is to temporarily accept the Nozican proviso and demonstrate that Nozick does not succeed in proving that workers are not forced even according to this standard. Capitalist apologists may argue that they have rights to their actions to recruit proletarians, so their actions are perfectly legitimate as long as their acts of recruiting do not impinge on what proletarian could do previously with their holdings. Thus, capitalists and proletarians enter into voluntary agreement, and proletarians are not forced to work for capitalists. However, Marxists and Marx's friends would not agree that capitalists' recruiting actions are legitimate. They might say that these actions are lawful, but the reason for such lawfulness or formal legitimacy is that capitalists have power to write their egoistic conceptions into law and deviate law from substantive legitimacy. Even if we grant that capitalists' actions are legitimate, albeit in a temporary sense because Nozick agrees on this point, it is unclear to see why coercion, which includes forced labor, does not flow from legitimate actions. There are plentiful examples of legitimate coercions either by the state or by others' claims. For example, let's say that I park my car over another person's parking lot, that person will have legitimate reasons to let me to relocate my car and do let me park elsewhere. In letting me to park my car elsewhere, the person acts legitimately because he can use what he previously could with his parking lot, and his acts do not constrain what I could use with my stuff. Nevertheless, it is hard to see why this "letting me park elsewhere" in this case is not equivalent to "forcing me to park elsewhere." In this case, I am forced to park my car somewhere else because this person limits my options to park. Situations like this fit Nozick's requirement of non-coercion, but it is unclear why people are not forced. In fact, the state by its definition is coercive, and people are forced all the time either by others' legitimate claim or the legitimate (or illegitimate) exercises of the state power.

If my argument works, Nozick does not succeed in proving that workers are not forced to work for capitalists. It might be argued that such coercion is legitimate just like other legitimate coercion such as forcing me to park my car somewhere else, so I shall respond to this point briefly. First, what is only needed to show is that workers are forced to work for capitalists regardless of the exact type of force. Nozick thinks that his framework applies to capitalist free markets not because he thinks that workers are legitimately forced to sell their labor power. Rather, he thinks that workers are not forced at all! That's why I only need to show that workers are forced. Second, such coercion is also illegitimate because it subjects workers to the arbitrary will of capitalists, deprives of workers' human essentials, and this coercion is also illegitimate for moral reasons as I will discuss Kantian ethics and self-ownership in depth very soon. Third, as I just argued in the last paragraph, to Marxists and Marx's friends, such legitimacy is formal rather than substantive. These actions are permitted because capitalists have the power to deviate law in favor of their particular and egoistic interests rather than the public and general interests.

Capitalist apologists may have another objection. They may argue another requirement of coercion rules out that workers are forced to sell their labor powers, or workers are forced, but capitalists are not responsible for such coercion. The strong requirement says that people are forced only if human actions cause restrictions of options. If non-human events cause restrictions of options, then people are not forced in a meaningful sense. For example, if I am walking on the road, and a meteorite just falls right in front of me, then meteorite forces me to die, but there is no point to discuss this type of coercion. The weak requirement says people are not responsible for some coercions only if such coercions are independent of their wills. This requirement says that people are forced, only if human actions according to their wills cause the severe restriction of options. The meteorite example still applies because it is a natural fact independent of human

wills rather than human actions that rather force me to do so. For capitalist apologists, they might say that although human actions cause workers to sell their labor power, this causation is a social fact independent of the wills of both capitalists. In this sense, the weak requirement applies. They might appeal to Marx's historical materialism to show that they enter into social relations that are indispensable and independent of their wills, and from the sum total of these social relations arises the legal and political superstructure of society, which is not determined by people's consciousness and but determines the corresponding social consciousness that reinforces and stabilizes the superstructure.²²¹ In this regard, capitalists enter into social relations that are independent of their will, so capitalists have to profit from the fruit of labor, and workers have to sell their labor power. Human actions do cause formation and existence of capitalist society, but capitalists might say that such social relations and the superstructure are independent of their wills. From it follows that capitalists can do nothing about it. Therefore, that workers sell labor power is a social fact and thus not a forced act. Even if they concede it is forced labor, they might argue that they are not responsible for such coercion because of social facts.

I will not discuss the metaphysical relation between free will and Marxism in depth. Although I am curious that if capitalists resort to historical materialism, which according to Marx would say that socialism is the sequel of capitalism, whether it follows that capitalists should accept socialism. I shall not comment on this point because it is irrelevant to the current topic. What I shall point out briefly is that the above argument by capitalists' confuses two concepts of "dependence." In speaking about that superstructure is dependent on capitalists' collective mindset, one cannot say that workers are not forced to be exploited, and one cannot say that

²²¹ Karl Marx, "Abstract from the Preface of A Contribution to the Critique of Political Economy," *Marxists International Archive*, written in 1859, <https://www.marxists.org/archive/marx/works/1859/critique-pol-economy/preface-abs.htm>, accessed May 10, 2020.

capitalists are not responsible. In historical materialism, superstructure and social relations are independent of will in the sense of individual will. This first type of independence from individual will should be understood in the sense that one individual capitalist cannot change how capitalism works in society as a whole even if he or she wants to. On the other hand, there is the second type of dependence on and independence of both collective and individual wills in the sense of maintaining the superstructure and stabilizing social relations. The formation and maintenance of superstructure and stabilization of social relations are dependent on collective wills of what I call “capitalists together.” This is the case because capitalists together have the mindset to support the ideology that grounds the superstructure, which stabilizes the mode of production and social relations. Therefore, capitalists together as a whole are responsible for such relations, which include the exploitation of workers. The first and second types of (in)dependence can coexist perfectly for the following reason. One capitalist may find it impossible to change how capitalism is organized and enter into the place in social relations under the legal and political structure, the two of which change in ways not dictated by his or her particular individual will. In this regard, social relations are independent of their individual wills. On the other hand, as this capitalist is a member of capitalists together, he or she also takes part in maintaining the superstructure and stabilizing the social relations. Namely, capitalists together are the big conjunction or the big whole, and any individual capitalist is the conjunct or the part. As capitalists together are responsible for such social relations, which include the exploitation of workers. Any capitalist is a member of capitalists together. Therefore, social relations and superstructure are dependent on individuals in the sense of maintaining the superstructure and stabilizing social relations. In this regard, any particular capitalist may not be as responsible as the hypothetical super bourgeoisie in Liu’s story, who maintains the superstructure just by

himself or herself, but it is hardly the case that the social fact has nothing to do with him or her. Moreover, any capitalist who participates in forming and maintaining the superstructure and stabilizing social relations contribute their individual will to form the collective that ground the superstructure. It cannot be said that superstructure and social relations are independent of a capitalist's individual will in this sense. Therefore, it cannot be said that workers are not forced given that independence from their will in this sense is ruled out.

By providing the counterarguments to possible objections by Nozicans and capitalist apologists, I conclude that their attempts do not show that workers are not forced to work for capitalists. Workers are forced to sell their labor powers in capitalist markets, and capitalists violate workers' self-ownership. Moreover, my argument has another implication that Nozican libertarians cannot ignore: capitalism is partial slavery. According to Nozick, taking away someone's earnings of n hours labor is equivalent to exerting partial ownership and forced labor over that person or forcing this person to work for n hours for another's purpose. In this regard, Nozick seems to define slavery as working for merely for another's purpose without this person's consent. Under capitalist markets, however, proletarians earnings of n hours labor are appropriated by capitalists, and they are forced to work for capitalists' purpose without substantive consent. Therefore, capitalists exert partial ownership and slavery over proletarians. I do not comment on Nozick's definition of slavery. What I demonstrate here is that capitalist free markets are in fact not as free as Nozican libertarians think. According to the Nozican framework, the principle of rectification should be triggered to correct this injustice.

Perhaps now pro-market friends can now have the interests to read further rather than stop at Chapter II, as capitalism is partial slavery, and they should condemn any kind of slavery. Applying Nozick's argument to capitalist markets shows that capitalists markets contradict the

fundamental idea of libertarianism. As a significant portion of the society, workers' self-ownership is undermined, and they are partially enslaved by capitalists according to the libertarian framework. Rectification of such injustice is necessary to restore workers' self-ownership. In this sense, libertarians and pro-market friends should also be interested in eliminating "exploitation and thus alienation," which according to a libertarian understanding is the appropriation of surplus value. To eliminate this alienation, libertarians arguably should insist on a social system where workers can receive their full entitlement.

But should be the appropriate understanding of "exploitation and thus alienation." According to the standpoint of species-being discussed in Chapter I, "exploitation and thus alienation" is interpreted as "taking advantage of someone's vulnerable situations because of the discrepancy of social power." Which type of alienation is the alienation that we should talk about? In this regard, perhaps it is clearer why responding to the almost inevitable libertarian critique is instrumental to illustrate why the formulated public ideology in Chapter II is indeed the rightful candidate of the public ideology of human emancipation. In the next section, I shall examine how libertarians should rectify the injustice of capitalism as partial slavery and why they would encounter a contradiction. More importantly, to defend the public ideology formulated in the last chapter, I shall first illustrate that humanity as end in itself and thus the kingdom of ends, which libertarians affirm and tend to equate as self-ownership, should actually restrict self-ownership. Based on the standpoint of the kingdom of ends, which a society of species-beings also commit to, "exploitation and thus alienation" should be understood according to the difference in social power rather than the transfer of surplus value. As this understanding of "exploitation and thus alienation" is taken, the public ideology formulated in the last chapter is very capable of eliminating alienation and thus realize human emancipation.

Therefore, it should be a rightful candidate to the public ideology of human emancipation, which epitomizes the authentic general interest rather than capitalists' deception.

III. Restrict Self-Ownership and Eliminate Alienation

Applying self-ownership to capitalist markets provides a response to the first objection by showing that according to libertarianism: capitalism does not uphold but violates liberty through the enslavement of the majority. Perhaps pro-market friends should not take capitalist markets for granted. But the second objection has not been addressed yet. According to the analysis above, libertarianism should hold that "exploitation and thus alienation" is appropriation of surplus value or taking n hours of labor from laborers to capitalists, and people are alienated because they are alienated from their product, thus the acts of production, and their species-beings. According to this conception of "exploitation and thus alienation," it might be questioned how a social system structured in accordance with the public ideology can eliminate alienation and realize human emancipation. Moreover, as the creator of the idea of human emancipation, Marx seems to endorse the idea of self-ownership, at least temporarily, as in socialism each gets the value of what he or she is entitled to.²²² It can also be argued that self-ownership will still not be violated in communism because everyone can take from superabundant resources that always satisfy and even exceed their entitlement without violating others' entitlements.

In this section, I would argue that humanity as end in itself should restrict self-ownership for I believe the former is different from the latter and is a superior idea. What "exploitation and thus alienation" should be properly understood is from the standpoint of species-being. According to this understanding, "exploitation and thus alienation" should be defined as "using

²²² Marx, *Critique of the Gotha Program*, 530-531.

more social power to take advantage of others' vulnerable positions." As illustrated in Introduction, acting from the standpoint of species-being also affirms every fellow citizens' ends in itself, and society thus realizes the kingdom of ends, thus getting what self-ownership aspires to but cannot get to. Moreover, if a society and economy are structured in accordance with the public ideology, one may get holdings not in complete accordance with his or her fruit of labor, but that can no longer be "exploitation and thus alienation" understood from the standpoint of species-being.

Let's start with the evaluation of the idea of self-ownership. I shall begin by dissecting the practicality of self-ownership. Applying self-ownership to Marxist analysis of capitalist markets shows that capitalism is partial slavery. Libertarians cannot tolerate any sorts of enslavement, so they must seek to abolish this partial slavery by transforming capitalism. Under capitalism, capitalists exert a partial ownership of workers' self-ownership. To fully rectify the impairment of workers' self-ownership, the alternative is either socialism or communism with the public ownership of all means of production, or an economy that consists of only worker cooperatives. In the two ideals, socialism gives each person his or her proper due by distributes income and wealth according to each's work, so it clearly respects self-ownership. In communism, because there is so much material abundance, each person not only receives his or her proper due but even some extra for some whose holdings in accordance to their work are not enough for their needs. Therefore, communism also respects self-ownership for all. In an economy consisted of worker cooperatives, workers can also receive the fruit of labor, although not immediately but over an extended period of time; otherwise cooperatives cannot function. While whether superabundance can be realized in markets with technological advancement by means such as controlled nuclear fusion and AI is yet to be seen, both communism and socialism

with collective ownership of all means of production imply planned economy, which is neither sustainable nor desirable.

Regarding worker cooperatives, it should be pointed out that workplace democracy is different from worker cooperatives. In the former, regardless of executives and non-executives, no one in a corporation has dominating and disproportionate amount of power and resources. The latter does not have any issue of “exploitation and alienation,” but an economy with only this type of ownership strangles the entrepreneurial drive to form companies with other ownership structures, which might be compatible with workplace democracy.²²³ By disallowing other types of ownership, this social system violates economic liberty that libertarians should espouse. If libertarians insist upon self-ownership without any restriction, it seems that all possibilities are exhausted. Therefore, self-ownership generates a contradiction when it is put in practice.

This contradiction can be illustrated more rigorously. Beside self-ownership, libertarians also aim to defend a free market order, in which the principle of justice is “from each as they choose, to each as they are chosen.” With freedom to choose as another supreme idea, an argument can be formulated to reveal the contradiction when striving toward the full restoration of self-ownership.

1. Everyone in markets should have the freedom to engage in voluntary exchange and embark upon enterprise journey.

²²³ Workplace democracy will be specifically discussed in Chapter V.

Let's say that (1) self-ownership should be a supreme value in markets.

(2) Fully restoring self-ownership requires either socialism or communism ownership of all the means of production, or an economy that consists of only worker cooperatives, in which workers can receive their full entitlements.

(3) Markets cannot function with collective ownership of all the means of production, and the economy disallow other types of ownership

(4) 1. is violated

(5) Therefore, self-ownership should not be a supreme value in markets.

Ok, let's say that (1)' Self-ownership should not be a supreme value in markets.

(2)' Without self-ownership, workers would be subject to capitalists' arbitrary direction and coercion.

(3)' (2)' is intolerable.

(4)' Therefore, self-ownership should be instituted as a paramount value.

2. Therefore, striving to fully restore self-ownership for all generates a contradiction, thus undermining the freedom to choose.²²⁴

This contradiction shows that in practice, self-ownership is an idea that contradicts itself. Nevertheless, this argument does not provide a reason to reject self-ownership. Libertarians might grant that a full insistence of self-ownership is impossible, but this impossibility does not defeat the desirability of self-ownership as a supreme ideal. People who are not in the libertarian camp may counter by resorting to Kant's notion of "ought implies can." As a society cannot fully restore self-ownership for all, it ought not to do so. As I argue in the last chapter, this objection

²²⁴ This set of arguments is an antinomy argument inspired by Immanuel Kant, who in *Critique of Reason* rigorously illustrates how reason contradicts itself under the framework of space and time. Resolving this contradiction requires a step beyond the space and time and into the unknowable realm of "things in themselves." Similarly, under the framework of freedom to choose, self-ownership generates a contradiction. The way to resolve this contradiction is to get another value that shall restrict such freedom and thus self-ownership; see Immanuel Kant, *Critique of Pure Reason*, translated by Paul Guyer and Allen Wood, Cambridge, England: Cambridge University Press, A428/B456 – A460/B488, 470-495, A498, B567 – B595, 514-550.

confuses “what we should do” and “what we should think.” Libertarians can say that self-ownership for all might be impossible to realize, so society ought not fully restore it. Nevertheless, “ought not to do it” does not imply “not endorse it.” The impracticality of communism with a planned economy does not justify the rejection of the ideal “from each according to his ability, to each according to his need” or “the free development of each is the condition for the free development of all.”²²⁵ Likewise, libertarians can still say that they endorse self-ownership as the supreme idea in their heads despite its impracticality.

Although the impracticality argument says nothing about either the refutation or the restriction of self-ownership, it is still relevant. It sheds light on what works in theory but fails in practice for libertarianism. Self-ownership might be regarded not as unrealistic as other egalitarian ideals such as fair equality of opportunity, but whether a particular moral or political ideal is realized or at least generally realized requires reasonable measurement. It might be the case that a lot of moral and political ideals cannot be easily measured, and some are easier than others. For example, a low Gini coefficient below 0.30 arguably means a general economic equality. For self-ownership, however, it is unclear whether some measurements can be used to judge whether and how a society generally respects self-ownership. It is also unclear what types of social system can correspond to self-ownership when complemented with such measurement, given that all possibilities are exhausted.²²⁶ Namely, self-ownership cannot be the moral truth for human emancipation as the end of history.

²²⁵ Marx and Engels, *Manifesto of the Communist Party*, 491; Marx, *Critique of the Gotha Program*, 531.

²²⁶ There are certainly more social systems than capitalism as the private ownership of all the means of production, Socialism, and Communism with the collective ownership of all the means of production, but I will explain in the next few chapters that the guiding ideas of those social systems are not self-ownership, or self-ownership is only one important idea that coexists with others.

Now let's go back to the point to assess self-ownership itself. I do not aim to refute self-ownership. I am not sure whether it can be completely defeated, and I think it indeed often converges with humanity as ends in itself such that it is an attractive idea in many respects. What I plan to show is that self-ownership, although an attractive idea, should not be the supreme idea with paramount importance. Then what should be the supreme value? I would rather propose Kant's notion of people as ends in themselves as a candidate, which should restrict self-ownership, especially in some glaring cases. More importantly, as shown in Introduction, Marx implicitly argues what species-beings commit to is humanity as ends in itself for every citizen and thus the kingdom of ends. Based on this understanding, "exploitation and thus alienation" cannot be understood from a libertarian perspective because doing so will never get to kingdom of ends, which self-ownership should also commit to. In this case, alienation is still not eliminated, so "exploitation and thus alienation" shall not be construed this way.

Nozick argues that when a state taxes for whatever purposes including redistribution, it uses some persons as mere means for others' purposes without the former's consent. Namely, if a state violates B's self-ownership, A treats B as a mere means rather than an end in itself. It seems that Nozick weighs both self-ownership and humanity as an end in itself equally and more than other values. To determine whether they are really both equally and the most important, or whether one is more important than the other, that is, whether one can restrict the other, a thorough comparison is needed. Let's start by examining these propositions:

- (1) If A violates B's self-ownership, A treats B as a mere means rather than as an end in itself.
- (2) If A treats B as an end itself not merely as means, A does not violate B's self-ownership.

(1) is arguably Nozick's original argument,²²⁷ and (2) follows logically from (1). Thus, the two propositions can be assessed simultaneously. I would argue that both (1) and (2) do not apply in many cases, from which it can be seen why humanity as an end in itself trumps and restricts self-ownership. There are many cases ranging from body assault to fraud, in which (1) applies, but consider the following case. Suppose that A found that B's laptop is on the street, A knew that it's B's laptop, and A noticed that a car is approaching. Judging from the direction that the car is driven, A was certain that the car would crush B's laptop if A did nothing about it. So A picked B's laptop, returned it to B, and explained what happens. This hypothetical scenario can be more dramatized, for example, if B himself was somehow lying on the ground, then the Kantian duty of beneficence would urge to rescue this person.²²⁸ In cases like these, suppose that B came to own the laptop in a just way, or B wanted to throw his/her laptop away, or B wanted to commit suicide by lying on the street, clearly A violated B's self-ownership, for A disposes B's laptop or his/her body without B's consent to satisfy what A thought as the moral treatment of B as an equal, rational being. Nevertheless, it is pretty reasonable for A to act in this way because A's beneficence respects B as an end in itself in doing so, although non-beneficence is in this case fails to respect as B as an end in itself. It can even be argued that A's otherwise indifference treats B as a mere means for A's convenience. It is true that A treated B as a means to A's conception that B's property, but B was not treated merely as means. A should help B for to respect as a person with fundamental dignity or a rational being. In these cases, A violated B's self-ownership, but A treated B as an end; thus (1) and (2) do not apply. In cases like this, it is imperative to comply with Kantian ethics even though at the expense of self-ownership.

²²⁷ Nozick, 30-35.

²²⁸ Ryan Doody, "A Kantian Duty of Beneficence," November 5, 2014, <http://www.mit.edu/~rdoody/Morality%20Ethics%20Handouts/KantianBeneficence.pdf>, accessed February 3, 2019.

The above assessment starts with (1) and the violation of (1) as the antecedent. As libertarians value self-ownership the most, it is thus proper to evaluate the idea again by starting with upholding self-ownership as the antecedent and examine whether it is compatible with Kantian ethics. Thus, the two propositions can be formulated as the following, which I think are accordance with Nozick's conceptions given libertarians' conceived notion of self-ownership:

(1)' If A respects B's self-ownership, A treats B as an end in itself rather than as mere means.

(2)' If A treats B as a mere means rather as an end in itself, A violates B's self-ownership.

According to my understanding of libertarian arguments related to Kantian ethics, (2) and (1)' combined and (1) and (2)' combined can form a biconditional relation between humanity as end in itself and self-ownership. Therefore, the assessment conforms to the intuition that libertarians consider the two ideas equally important or basically the same thing (and more important than other ideas). Nevertheless, if my argument works, then (1) and (2) do not hold. If (1) and (2) do not hold, then the biconditional relations do not hold. If the biconditional relations do not hold, then humanity as end in itself cannot be equivalent as self-ownership.

After clarifying this point, it is necessary to evaluate (1)' and (2)', which start with respecting self-ownership as the antecedent. There are many special and even outrageous cases that (1)' and thus (2) do not hold. For instance, let's say that A accepts that B voluntarily becomes a slave for A, or B willingly works for the exploiting and thus alienating firm owned by A for whatever reason, then A respects B's self-ownership, but clearly A treats B merely as a means. The only criterion that justifies this mutual exchange is the idea of consent contained in the idea of self-ownership, but it is very possible for people to give consent to things that undermine either the fundamental dignity of themselves or others. It is important to note that with respect to consent, libertarians and Kant differ in significant ways. Libertarians only require

explicit consent or at most non-forced consent.²²⁹ But even if forced consent is rejected in libertarian ground, it is still very possible for people to give very voluntary consent in the above two cases. For example, B really likes the content of work in A's firm than anything else, even though he perused Marx's works and knows better than anyone else that A is exploiting and alienating him and his other colleagues.

Instead, Kant has a very stringent requirement for what counts as consent, as he explains in the example about deceitful promise when he discusses the formula of humanity as an end in itself:

"*Second*, as regards necessary duty to others or duty owed them, he who has it in mind to make a false promise to others sees at once that he wants to make use of another human being *merely as means*, without the other at the same time containing in himself the end. For, he whom I want to use for my purposes by such a promise "*cannot possibly agree*" to my way of behaving toward him, so himself contain the end of this action."²³⁰

For Kant, what justifies a consent is not that the consent is explicit. An explicit consent can be a justifiable consent on libertarian ground, but it is very possible that one *does agree* or *would possibly agree* but *cannot possibly agree* to something.²³¹ The important justification for an explicit consent has to be consistent with what a rational being *can* willingly give to himself or herself. For example, one *cannot possibly agree* if one is deceived, coerced, or affected by acts not consistent in Kantian ethics.²³² In this respect, Kant's requirement for consent is significantly higher than libertarians'. Libertarians might say that they may modify their

²²⁹ Nozick, 163.

²³⁰ Immanuel Kant, *The Groundwork of Metaphysics of Morals*, translated and edited by Mary Gregor, Cambridge, England: Cambridge University Press, 38.

²³¹ Christine Korsgaard, "The right to lie: Kant on dealing with evil," *Philosophy and Public Affairs* 15, no. 4: 331-333.

²³² Ibid.

conception of consent in line with Kant's, but if they attempt to do so, they will welcome acts that they would previously reject. For example, if a gluttonous person eats too much whatever flows from just steps in libertarians' account such that his or her gluttony is equivalent to long-term suicide, libertarians would clearly reject the interference by the third party, but Kantians would definitely step in to prevent this extreme gluttony.

These cases thus test the idea that humanity as an end in itself should be superior to and should restrict self-ownership. Given that self-ownership should be restricted, "exploitation and thus alienation" should not be understood as the appropriation of surplus value without one's consent. Rather, it should be understood from the standpoint of the kingdom of end and species-being. The next section will thus show how to properly understand "exploitation and thus alienation" from the standpoint of species-being, and why acting from the standpoint of species-being also simultaneously affirms other fellow citizens' ends in itself and thus makes a society the kingdom of ends, and why the public ideology, under which citizens shall act as species-being, eliminates alienation and realize human emancipation.

IV. Why the Public Ideology is indeed the Ideology for Human Emancipation

Examining the proper meaning of "exploitation and thus alienation" is necessary to illustrate why the public ideology can eliminate alienation and is thus indeed the rightful candidate of public ideology of human emancipation. In human emancipation, people act from the standpoint of species-being and are not alienated from species being. As argued in Chapter I, alienation is objective and inevitable in capitalist society because of exploitation. After the discussion of Marx's analysis of exploitation in Chapter I and self-ownership in this chapter,²³³ we can see that there are two understandings of exploitation. Based on the libertarian

²³³ Although the latter is less intuitive.

understanding in accordance with self-ownership, “only those who produce wealth deserve or receive it” unless with consent.²³⁴ It follows that people would be exploited if they do not receive what derives from her labor and is thus their entitlement, and people are not exploited if they receive the full amount of what they produce. In Chapter I, I conclude that a normative understanding of “exploitation and thus alienation” should be based upon the difference of social powers between the exploiter and exploited, and the former uses this disparate power to take advantage of vulnerable situations of the latter. While Marx seems to endorse the libertarian understanding based on his abstract vision of socialism, it is interesting that he hopes to eventually commit to realize species-being as human essence in his utopian world. Marx never dissects the idea of self-ownership very deeply, so he has no comment on the relation between species-being and self-ownership in his utopia. In this section, I would compare these two understandings and argue that the second version of exploitation should be a proper understanding of “exploitation and thus alienation.” Moreover, the public ideology formulated in the last chapter can eliminate “exploitation and thus alienation.” Therefore, it indeed stands for the general interest and is indeed the rightful candidate of public ideology of human emancipation.

The simple answer why the second version of exploitation shall be chosen is that the former embodies human selfishness, while the latter signifies a set of virtues required by species-being such as reasonable other-regarding incentives and civic-mindedness. According to the libertarian understanding, it would condemn exploitation in the workplace, but it would also reject things that we do not criticize and are even proud of. For instance, the requirement to do unpaid community service without pay or donating essential medical supplies in a pandemic

²³⁴ John Roemer, *A Future for Socialism*, Cambridge, MA: Harvard University Press, 16.

would count as exploitation according to libertarian standards, as long as those who perform these services do not consent. If they consent, the problem is solved. If they do not consent, then there would be a dilemma between “property rights” and “paying their fair share.” Nevertheless, regardless of one’s side on this issue, it would be odd to characterize such transfer as “exploitation,” even though more than what they produce, and others get less.

For instance, suppose that during the Covid-19 crisis in 2020, in an apartment with four people, I make 100 N-95 masks, and my three roommates do not have any mask during the Covid-19 pandemic. The infection rate becomes exceedingly high such that 50 percent of people in our neighborhood are infected. While we are fortunate enough because we are not infected, my roommates are extremely scared and plead me to share some masks with them. In reality, I share those 100 N-95 masks as public property for our apartment. But let’s suppose that I am a firm believer of the libertarian understanding of exploitation. In this case, I refuse to share any mask. As a result, my roommates are deeply disappointed and inform the school authority of this matter, who forces me to share masks with my roommates. In this case, I do not think that self-ownership and consent trump anything else, and the school authority can legitimately force me to share masks, restrict self-ownership, and makes me act in accordance with my species-being. I should care more about my roommates rather than watch them catch the virus. If not, then I’m still preoccupied with my egoistic interests and the rights of man, even though I am not exploited according to this libertarian understanding. Perhaps what’s more objectionable is that I do not fulfill the Kantian duty and civic-mindedness within dorms, treat my fellow roommates as mere means, and degrade myself as mere means.

The above analysis shows that according to the libertarian understanding of exploitation, it is possible that one is not exploited but is still alienated from his or her species-being. The

following argument can more rigorously illustrate why non-exploitation is compatible with alienation from species-being:

- (1) A person is not alienated only if he acts in accordance with his species-being and contributes fair share to the public interests;
- (2) In cases when the public interest require, keeping all of what one produces or is entitled to is not public-mindedness but egoism.
- (3) Therefore, keeping all of what one produces or is entitled to, which corresponds to the thesis of self-ownership, alienate people from his or her species-being.

What alienation in capitalist society is fundamentally about is the alienation of species-being. Citizens are species-beings only if they have due regard to their fellow citizens, exercise their individual powers as social powers, and affirm rights as rights of citizens rather than merely rights of man.

It might be argued that if alienation is fundamentally about alienation from species-being, then why focus so much about alienation from labor, which seems to correspond to the libertarian understanding. This intuitive understanding is actually a mistake. Marx's theory of value is empirical and by itself says nothing about whether exploitation is just. The normative underpinning that condemns "exploitation and alienation" is still the second understanding based on species-being and thus the kingdom of ends. In capitalist society, one exploits the other only if the former use his or her greater social power to take advantage of the latter's vulnerable situations. Under such circumstances, the former has the power to extract surplus value in an arbitrary manner, thus explaining how alienation from product is possible. Therefore, the second understanding of "exploitation and alienation" is still compatible with normative underpinning

that condemns exploitation in capitalist society. Three propositions should be briefly formulated to summarize the discussion of “exploitation and alienation.”

- (1) It is not necessarily the case that one is exploited and thus alienated because she does not receive the value of what he or she produces.
- (2) It is the case that one is exploited and thus alienated because her disadvantaged situations due to less social power are taken advantage of.
- (3) It is also the case that one is not exploited but is alienated because she acts from egoistic interests by keeping all of what he produces or is entitled to and disregarding the public interest.

The libertarian understanding of exploitation is rejected. In comparison, the understanding based on the disparity in social power is arguably the understanding of species-being, which can justify other-regarding acts and duties that would be otherwise characterized as “exploitation” by the libertarian understanding.

Finally, when “exploitation and thus alienation” is understood in this way, we can see that the public ideology can eliminate alienation and realize human emancipation. The explanation turns out to be very simple. “Exploitation and thus alienation” occurs because people are indulged in putting their egoistic interests at the supreme positions and exercising their dominant social power to extract advantages for them from others’ disadvantage. Such acts belie their species-beings. In contrast, the public ideology and its application in basic and non-basic structures aim to secure equality in political liberty, fair equal opportunity, and general economic equality/equality of resources.²³⁵ Because it is applied in spheres beyond the basic structure, these commitments to equality also strive to equalize social power. With equal political and

²³⁵ I will use the two phrases interchangeably in subsequent parts of the thesis.

social power, people will treat each other with equal status and worth and as ends in itself, such that people can exercise meaningful controls over their opportunities, economic resources, and social power. In this case, human emancipation is complete; the kingdom of ends is realized, and the legal structure affirms the rights of citizen.

It is important to emphasize that surplus value still exists under this public ideology of human emancipation, but the transfer of surplus value does not constitute exploitation. In a society that corresponds to this public ideology, there are some more possibilities of what happens to surplus value. The surplus value may derive from workers' labor but stay in firms without being owned by anyone. It may be transferred to capitalists, but they have no disproportionate surplus value because workers can also have reasonable shares and codetermine the uses of assets, and vice versa. Because of this equalization of social power in the workplace, capitalists can no longer dominate workers and take advantage of workers' vulnerable situations in terms of firms' resources and control. On the other hand, if workers insist upon receiving their full values derived from their labor, then they would disrupt the functioning and sustainability of the firm and disregard either their fellow colleagues or other people in the political, civil, and economic community, to whom such resources matter more. In this way, insisting upon the full values of what they produce is still acting like an egoistic individual rather than a species-being. Therefore, the public ideology does not require the elimination of surplus value.

I choose the word "eliminate" rather than "mitigate" because I do think that elimination of "exploitation and thus alienation" is a real possibility rather than an unrealistic utopian dream. Unlike Dworkin's emphasis on various kinds of disadvantaged situations, which are exceedingly hard to disentangle in reality, the people, the sources, and the circumstances of unequal social

power in capitalist societies are evidently clear: capitalists and their institutions like private corporations have more social power and even political power than workers and other members in the political, economic, and civil community; the acts and decisions by capitalists and their institutions often have adverse consequences on the public community, and capitalists blatantly rationalize their egoism as the deceptive general interest into the legal and political superstructure. In the social system that corresponds to this public ideology of human emancipation, the equalization of social power in political, civil, and economic spheres can be realized because the target to be equalized is crystal clear. Therefore, human emancipation is a real possibility. This is perhaps why life in Scandinavian countries already resembles the utopia of communism. Even though most of them are still technically social democracies, the extent of equalization of power is unparalleled anywhere in the world.²³⁶ While there are praiseworthy aspects in the Scandinavian model, more comprehensive reforms are needed not only to be applicable to more regions but also to substantively realize rather than approximate human emancipation.²³⁷

Now, let's step into Part II, to see what a social system that corresponds to the public ideology of human emancipation looks like, what the components of this social system are, and why they can as a whole realize human emancipation and create a society of genuine and substantive equals.

²³⁶ Marcel Liebman and Ralph Miliband, "Beyond Social Democracy," *Jacobin*, January 23, 2018, <https://www.jacobinmag.com/2018/01/social-democracy-socialism-ralph-miliband>, accessed May 10, 2020.

²³⁷ Ibid.

Part II: The Political Foundations of Markets

Foreword: The Social Economy

Part I relentlessly critiques capitalist market and society, illustrates why the ruling ideology is a hypocrisy that represents the interests of the ruling class rather than the public interest, and attempts to formulate a real public ideology that substantively represents the public interest. It also responds potential critiques from the pro-market camp and argues why such an ideology eliminates alienation under capitalism and is therefore indeed the ideology of human emancipation. However, arguing without practicing is still empty. Marx can still say that “fine, you have a real public ideology, but how to do it?” Without knowing how to do, perhaps we still have to wait for the uncertain superabundance. To show how to do it, Part II shall explore the ways to organize the Social Economy of human emancipation and the corresponding reforms to transcend

Perhaps the word “Social Economy” shall be explained in detail. Social Economy is the social system with legal and socioeconomic structures that empower civil society to control the economy. Human emancipation requires such a system that empowers the civil society and emancipate citizens from the dominance of economic power by a slim minority of economic elites and state power with concentrated political power of this minority.

Some concepts need to be further clarified before explaining this view. Power here simply means “the capacity of actors to accomplish things in the world” or to “produce significant effects with respect to some kind of goal or purpose.”²³⁸ Erik Olin Wright formulates three types of power with three corresponding general socioeconomic systems. Economic power is the power of private ownership and control of economic resources exercised by owners of capital.²³⁹ With the dominance of economic power over other powers, Capitalism stands as the

²³⁸ Erik Olin Wright, *Envisioning Real Utopias*, London, England and Brooklyn, NY: Verso, 111.

²³⁹ *Ibid.*, 113.

social system.²⁴⁰ As explained in Part I, Capitalism, particularly in its unbridled laissez-faire form, produces severe exploitation, inequality, and alienation of human essence. Some may argue that human emancipation requires the emancipation from the dominance of private property or the means of production, which means the public ownership of the means of production by the state. With such public ownership, state power, which is the power to control rule-making and rule-enforcing over territory, dominates economic power. The corresponding social system under this circumstance is Statism, under which the state power controls the market with concentrated political power.²⁴¹ Nevertheless, as analyzed in Chapter I, rulers with state power under Statism eventually act from the standpoint of their egoistic interests and undermine their species-beings. The negation of species-beings under Statism further undermines individual autonomy and self-government.

Both systems are bad, but do they exhaust all possibilities? Absolutely not. It is natural to think that it is public ownership that negates private ownership, but social ownership or social power as an even higher concept can preserve the essence of both private and public ownership but negate both concepts. Social power is the power “rooted in the capacity to mobilize people for cooperative, voluntary, and collective actions of various sorts in civil society.”²⁴² Given this definition, it is important to point out that market is a part of civil society because there are numerous cooperative and collective actions and associations such as unions and consumers’ associations in various markets, although such actions may not operate on a fully voluntary basis under the power dynamics capitalism as explained in Chapter I and III. With the dominance of social power over the other two powers, the corresponding social system, as Wright calls it, is

²⁴⁰ Ibid., 120.

²⁴¹ Ibid.

²⁴² Ibid., 113.

Socialism, within which the means of production are socially owned, and civil society exercises the social power to allocate and use economic resources for different economic and social purposes.²⁴³ At this stage, there is a real possibility of human emancipation, the rights of citizens with equal political liberty, fair equality of opportunity, and general economic equality. This possibility lies in the dominance of social power or social empowerment over the economy, that is, over ways state and economic power affect and shape “the ownership, use, and control of economic resources and activities.”

Some points need to be clarified before embarking on specific ways of social empowerment that the social economy aspires to realize. First, regarding the dominance, this paper here does not seek to delve into a deep philosophical analysis of the term, which might be construed with some negative meanings according to some philosophical understandings. Rather, the meaning of the dominance of social power or social empowerment shall be stated more explicitly: the dominance of social power over economic and state power means the true mutual recognition of interests among these parties, rather than the assertion of interests of one side but not the other. The term civil society shall be construed to incorporate all three sides but not the two sides. Second, regarding the name “Socialism” as Wright defines it, there might be some controversies. There are many controversies over the specific meaning of this term, as different people refer to different things when using the term. As explained in Chapter I, Marx himself says surprisingly little about what an economy of “Socialism” might look like. Wright is a resolute Marxist, so he chooses Socialism as the word he likes as the social empowerment over economy, but to many people in capitalist societies such as the U.S., the term seems somewhat pejorative, given the tragedy of planned economies in the Cold War. For those who do not like

²⁴³ Ibid., 121.

the term “Socialism,” other alternative terms like “Anti-Capitalism,” “Post-Capitalism,” “Capitalism 2.0,” “Economic Democracy,” etc. I personally choose the term “Social Economy” can be used. Regardless of one likes the term Socialism or not, she shall focus on the elements of concept rather than the mere name of concepts. As Kant puts it, “thoughts without content are empty, intuitions without concept are blind.”²⁴⁴

Third, I use the word “social systems” to describe Capitalism, Statism, and Socialism or and choose “legal and socioeconomic structures” to refer to the specific organizations within such a system. I use plurals in “structures” for two reasons. For one thing, the inquiry in Part II is not meant to be definitive. Although the proposed and examined structures in Part II are empirically informed and inspired, many of them need more empirical experimentation and collective deliberation from various disciplines and civil society at large to test whether they are truly appropriate and desirable alternatives to unbridled capitalism. In this process, some structures may or may not turn out to be successful, but even their failure does not justify the legitimacy of pure *laisse-faire* capitalism. Rather, this process of experimentation and collective deliberation will provide meaningful lessons to test other alternatives or modify the structures to make them function better. The advent of liberal political democracy was built upon centuries of deliberation and experimentation, including the initial failure of direct Athenian democracy and the reign of terror during the French of revolution. For a long time, democracy had been a pejorative word, as American Founders emphasize the term of “republicanism” rather than democracy. Nevertheless, such failures do not justify the rejection of democratic values such as personal autonomy, self-government, and sovereignty of people, and thus they do not justify

²⁴⁴ Kant, *Critique of Pure Reason*, A51/B75, 193.

reactions against further deliberation and experimentations of democracy. The same thing can be said over the economy to realize economic democracy.

For another, for the use of plurals in “legal and socioeconomic structures” is that no single structure can accomplish or approximate the ideal of human emancipation. As Part II will explain, every single structure has its key functions, and these structures do not contradict each other. Nevertheless, one single structure is not enough. As we shall see, every structure by itself is somewhat inadequate, but such inadequacy does not imply a rejection of such structure. Rather, the inadequacy of a single structure show the necessity of the next structure to complement where the former one falls short, such that these structures can function together and mutually complement each other to constitute the social economy. All of them are arguably critical components of such an economy and thus the concrete steps (intellectually, not necessarily chronologically) to realize the public ideology of human emancipation and turn the rights of man to the rights of citizen.

It might be questioned that why Social Economy or Wright’s conception of Socialism is not a version of Statism, as civil society still needs the state to empower the economy. It may also be argued that figures like Rawls and Marx try to formulate their ideals via Statism because of their emphasis on the public institution. To respond to this point, the key distinction lies in who sits behind the vehicle of state or civil society. What Wright arguably tries to reject in the approach of Statism to organize the economy is arguably the unilateral will behind Statism of some particular state officials, rather than the community or civil society as a whole.²⁴⁵ For instance, Statism can regulate markets just because state officials want to preserve fair market competition and counteract with monopoly power. While such regulations are desirable, they can

²⁴⁵ Wright, 120-123.

stem from a capitalist justification to perpetuate the control of the economy and politics in the hands of a few. Under state socialism, Statism regulates markets from a unilateral and arbitrary standpoint of production, transactions, and distribution, and such standpoint ignore civil society as a whole.²⁴⁶ What Wright tries to argue for is that the will behind Statism shall not be a few single, particular, and unilateral wills but civil society at large. In Marx's formulation and my public ideology, it is species-being that shall sit behind Statism in order to realize human emancipation. But such a Statism differs from previous Statism significantly in terms of who exercises control over economy, and that is arguably the reason that Wright names this version of Statism "Socialism," or what I call "Social Economy," as some may prefer to call it this way.

After specifying the goals of Part II and clarifying some key points, I shall begin to propose and examine the specific legal and political structures of Social Economy that correspond to the public ideology of human emancipation. In Chapter IV, I argue for socioeconomic rights as the first legal (and) socioeconomic structure and also the specific ways to constitutionalize such rights. After arguing for the necessity and ways to realize them, I shall point out that welfare-state the first step to march toward human emancipation. At the socioeconomic level, welfare-state capitalism does not have enough commitment to equality. At the constitutional level, it is a modest attempt to reorient the rights of man to the rights of citizen. Given the necessity but also inadequacy of socioeconomic rights, other socioeconomic and legal structures should be explored. Regarding the legal structure that fully embodies the rights of citizen, there might be disputes of how to realize it from constitutionalizing specific structures or abstract principle, and from abstract constitutional commitment to textually explicit clauses. Given these disputes and a wide range of possibilities, I find it more appropriate to delve into

²⁴⁶ Ibid.

other socioeconomic structures first, to evaluate their potential accomplishment and their inadequacy, and then come back to the final legal structure to resolve such inadequacy. As we shall see, the exploration of these socioeconomic structures will reveal the multifaceted, uncertain, and unanticipated problems of transcending Capitalism and maintaining Social Economy. With these problems as the background, the exact way to constitutionalize the rights of citizen will be clearer.

The next socioeconomic structure next to welfare-state is workplace democracy. Chapter V illustrates why Social Economy requires democratic workplaces that resemble German-Nordic models of codetermination with equity ownership for employees. In this chapter, I explain why the current corporate world is tyranny, and why solving the problem requires workplace democracy. Then I argue that the ideal of workplace democracy is very feasible after evaluating its current practices. Finally, I shall point out the inadequacy of workplace democracy. To put it simply, with workplace democracy and welfare-state only, Social Economy is the social system for workers, not for all citizens. Under workplace democracy, workers and capitalists may act as species-beings in their firms but not in society, and the private interests of democratic firms may contradict the public interests of community. In this regard, citizens, not only workers, shall have substantive controls and says over their economy. While workplace democracy is an indispensable and great leap forward toward human emancipation, its inadequacy justifies the next structure.

What comes next to welfare-state and workplace democracy is property-owning democracy and liberal (democratic) socialism. In Chapter VI, I first explain these two terms and point out the significant, if not complete, convergence between them; thus I use the two terms interchangeably for the sake of convenience. Then I argue that property-owning democracy

requires workplace democracy but also something further beyond: universal capital endowment and basic income and social wealth fund. After proposing these components, I conclude the socioeconomic structures of the Social Economy. Nevertheless, to fundamentally reorient the rights of man to the rights of citizen, another legal structure is needed.

After exploring these socioeconomic structures, it becomes clearer why this legal structure is left to the end because the multifaceted, uncertain, and unanticipated problems of transcending capitalism make constitutionalizing some specific structures inappropriate. The Chapter VII, also the final chapter, proposes a bold and textually explicit constitutional amendment that seeks to transform the rights of man to the rights of citizen. It provides a guarantee that the legal structure does not hypocritically represent the fake general interest, and those with more economic and political power cannot enshrine their particular and egoistic interests and corresponding social relations into the superstructure. Moreover, this amendment constitutionalizes some general economic prerequisite to equal citizenship and abstract principles of economic equality, without specifying the exact forms of such prerequisites and structures of society. Before proposing this amendment, I shall first argue that a general economic equality is the economic prerequisite of a modern constitutional order. Then I shall evaluate different constitutional approaches of preserving such a prerequisite and argue why I choose to constitutionalize general and textually explicit principles. Finally, I shall formulate and defend proposals.

The legal structures include constitutionalizing socioeconomic rights and economic prerequisite of constitutional order, while the socioeconomic structures include welfare-state, workplace democracy, and property-owning democracy (liberal (democratic) market socialism). Each component is indispensable, and they should mutually complement each other's

inadequacy. Together, they constitute Social Economy, form the basis of human emancipation, and fundamentally reorient the rights of man to the rights of citizen.

Let's embark upon this intellectual journey, by starting with socioeconomic rights.

Chapter IV: Socioeconomic Rights as the Partial Rights of Citizen

“When rights by their very nature are shared and inter-dependent, striking appropriate balances between the equally valid entitlements or expectations of a multitude of claimants should not be seen as imposing limits on those rights, [...], but as defining the circumstances in which the rights may most fairly and effectively enjoyed.”²⁴⁷

- *The South African Constitutional Court in Soobramoney v. Minister of Health*

Perhaps that one necessary if not the first component to reform unbridled capitalism that one comes to mind is welfare-state. This chapter argues for constitutionalizing socioeconomic rights as partially constitutionalizing the rights of citizen. In other words, socioeconomic rights as the legal structure and welfare-state as its socioeconomic structure as the necessary and intellectually the first step on the road to human emancipation, in terms of political foundations of markets. In the first section, I shall explain why socioeconomic rights can be viewed as the commitment to rights of citizens and respond to a potential objection based on the constraint of resources and the distinction between the positive and negative rights. I shall explain the reason that I reject the qualitative but accept the quantitative distinction between these two rights. To deal with the difficulty raised by the quantitative distinction, I will outline some ways in Section II. to constitutionalize socioeconomic rights in textually explicit ways and argue for the South African model of socioeconomic rights as the partial institutionalization of the rights of citizen. In Section III., I argue that socioeconomic rights’ commitment to the rights of citizen is only partial because it still falls short of realizing the public ideology of human emancipation. In this

²⁴⁷ Soobramoney v. Minister of Health (Kwazulu-Natal), Constitutional Court (South Africa), 1998 (1) SALR 765 (CC), in *Comparative Constitutionalism: Cases and Materials*, (St. Paul, MN: West Academic Publishing), 1435, compiled by Norman Dorsen, Michael Rosenfeld, András Sajó, Susanne Baer, and Susanna Mancini.

sense, socioeconomic rights are only partial commitment to the rights of citizen. To realize the public ideology, the quest for human emancipation thus requires legal and socioeconomic structures beyond socioeconomic rights and welfare-state respectively, which shall transcend capitalism, as we shall see in subsequent chapters.

I. The Merit of Socioeconomic Rights

Perhaps that one necessary if not the first component to reform unbridled capitalism that one comes to mind is welfare-state. This chapter argues for constitutionalizing socioeconomic rights as partially constitutionalizing the rights of citizen. In other words, socioeconomic rights as the legal structure and welfare-state as its socioeconomic structure as the n

The end that socioeconomic rights work toward is equal human dignity as the substantive equality among citizens. Equal worth among persons enables citizens freely develop their faculties, exercise their rights and deliberate common affairs in the cooperating community, and pursue goals affirm themselves. Nevertheless, substantive equal citizenship is possible only if citizens enjoy a decent minimum standard of living.²⁴⁸ Otherwise, if citizens are constrained by poverty, they would lack necessary resources such as education, healthcare, and housing to exercise their rights, even though they may understand the importance of these rights.²⁴⁹ Thus, severe social and economic inequality excludes a certain section of citizens from the political process. In this sense, these citizens enjoy neither formal political equality, not to say substantive equality, even though such equality may have some constitutional guarantees. To truly and fully actualize political equal citizenship and open the road to substantive equal citizenship, it is necessary to institutionalize welfare state and socioeconomic rights.

²⁴⁸ Cass R. Sunstein, "Sunstein on FDR's Second Bill of Rights," *The University of Chicago Law School*, October 1, 2014, <https://www.law.uchicago.edu/news/sunstein-fdrs-second-bill-rights>, accessed May 16, 2019.

²⁴⁹ Stephen Holmes and Cass R. Sunstein, *The Cost of Rights: Why Liberty Depends on Taxes*, New York, NY and London: W.W. Norton & Company, 198.

In this regard, socioeconomic rights can be viewed as the attempt to add elements of the rights of citizen to a constitutional scheme of the rights of man. Without socioeconomic rights, citizens who are relatively well off can be preoccupied with the unqualified civil liberty such as their right to property, indulge in the supremacy of their egoistic interests, and disregard the suffering of fellow members of community. On the contrary, the injection of socioeconomic rights adds the qualification of the quasi-religious status of the liberties for the better-off only, and enforcing socioeconomic rights require due civic-mindedness and concerns toward the weaker section of the community. In this sense, citizens not only exercise their rights for their legitimate claims but also fulfill their duties as citizens toward their fellow members.

Perhaps a common objection to socioeconomic rights is the constraint of resources. Unlike some negative rights such as the rights to free speech, socioeconomic rights are essentially positive rights, which some argue are fundamentally different. If someone says that “I have a right to healthcare,” does that mean that she should have healthcare no matter what, even this claim puts an excessive burden for those who pay their taxes for such healthcare?

To answer this question, it is also important to emphasize a justification of welfare state and socioeconomic rights from a constitutional perspective. Namely, negative rights and positive rights are essentially the same; the recognition of negative rights already presupposes citizens’ duty to pay due shares to defend such rights; therefore, citizens should also have the duty to affirm positive rights. In *The Cost of Rights*, Stephen Holmes and Cass Sunstein present an argument that tries to eliminate the distinction between negative rights and positive rights. It might be argued that negative rights preclude governmental interference, and positive rights entail governmental actions to enable citizens’ autonomy. Negative rights and positive rights are therefore often understood to demand the preclusion of governmental performance and the

requirement of government performance respectively.²⁵⁰ Nevertheless, Holmes and Sunstein argue that it is a confusion of concepts because for negative rights, its non-interference and exclusiveness require performance by government to enforce those rights.²⁵¹ The enforcement of non-interference for negative rights requires taxation to protect the exclusive nature of negative rights for those affected, thus inevitably using some taxpayers' money for the purpose of the affected citizens.²⁵² Some examples help illustrate this point. Both the right to fair trial and the right to free speech are commonly recognized in a constitutional democracy, and both require the performance of government regardless of their positive and negative elements. For people to have access to the court, the state has to institute the judicial structure, select independent judges, and also build a corresponding police and prison system.²⁵³ For those who are unable to afford to have such access, the state should guarantee legal representatives. In countries that use jury, citizens have to comply with their jury duty. On the other hand, to really make freedom of speech possible, the state has to also use its capacities such as the court to provide remedies for violations of free speech.²⁵⁴ In other cases, the state should forestall potential violations of justifiable speech. For example, the state should displace its police force to prevent potential harms incurred on such as on people who participate in legal demonstrations.²⁵⁵

All of these cases demonstrate the necessity of governmental performance and thus some tax revenue from some taxpayers to other citizens only. Because both require governmental performance and thus taxation from other citizens, Holmes and Sunstein argue that is no distinction between the exercise of “so-called” negative rights and positive rights in this sense.²⁵⁶

²⁵⁰ Holmes and Sunstein, 39-43.

²⁵¹ *Ibid.*, 43-48.

²⁵² Mark Tushnet, *Weak Courts, Strong Rights*, Princeton, NJ: Princeton University Press, 228-231, Kindle Edition.

²⁵³ *Ibid.*

²⁵⁴ *Ibid.*

²⁵⁵ *Ibid.*

²⁵⁶ Holmes and Sunstein, 48.

Namely, we already live in a society, in which everyone pays each other to safeguard each other's right. Given the qualitative non-distinction between negative rights and positive rights, citizens shall have the duty to safeguard positive rights such as socioeconomic rights to provide the precondition of substantive equal citizenship.

Critics of the socioeconomic rights may grant that negative rights and positive rights are qualitatively synonymous, but they might argue that they are still quantitatively different. As dialectical methods may show, quantitative difference may transform itself into qualitative difference, if the former passes a certain limit. Critics may argue that the amount of resources and the extent of commitment to positive rights drastically exceed those of negative rights, so they are still different. In that regard, one cannot say that "I have a right to healthcare" no matter what.

This type of positive right is not the right that should be defended. Otherwise, positive rights become the rights of man for those who seek healthcare without due regard to the burden she puts on her fellow citizens to finance her healthcare. What everyone needs is a reasonable conception of socioeconomic rights and the welfare-state they ground. The next chapter will thus explore ways to reasonably constitutionalize socioeconomic rights. After all, realizing the rights of citizen cannot just stay at the abstract level. Otherwise, Marx might critique that even if you have a real public ideology, you cannot do it. Thus, to realize human emancipation, it is also necessary to show how to do it. The next few sub-sections basically try to answer the question of "how to do it."

II. Implementing socioeconomic rights: weak and strong judiciary and enforcement

Section I. justifies the necessity to include socioeconomic rights in the Constitution, but it does not justify the absoluteness of socioeconomic rights. Otherwise, socioeconomic rights are still the rights of man rather the rights of citizen, the latter of which are what socioeconomic

rights work toward. No right is absolute and thus should be regulated to preserve the collective bundle of rights to make the public institution work. In order to show how to constitutionalize this commitment to the rights to citizen, it is necessary to determine the boundary of socioeconomic rights. In this regard, many relevant questions arise: does the inclusion of socioeconomic rights signify only aspiration or governmental action? If actions by government is necessary, should the judiciary or legislature implement such rights? Is the implementation as absolute as negative rights such as freedom of speech, given that the state is constrained by resources and have other legislative and budget priorities at stake? These questions should be tackled very thoroughly. Otherwise, a blind pursuit of social justice may be abusive with regard to other rights and commitments by the state. This section first discusses whether socioeconomic rights stand for declaratory principles or require government actions and then evaluates three possible ways of implementation, which can be viewed as an intellectual progression²⁵⁷ or movement toward the South African model approach with a judicial review that protects preserves the separation of powers and weak or qualified protection of socioeconomic rights in general.

A. Socioeconomic Rights as Declaratory Principles

It is used to be argued that socioeconomic rights should be declaratory principles mainly because of the vagueness of standard to justify judicial or legislative actions. Such vagueness is about the standard for judicial performance and intervention. In terms of negative rights, the reasons and conditions for judicial interpretation and thus performance is more predictable. Although some nuances exist, violations of freedom of speech are relatively easy to identify.²⁵⁸ Moreover, although both negative rights and positive rights require institutional performance,

²⁵⁷ Albeit not strictly a chronological progression.

²⁵⁸ Davis, 484.

implementing negative rights like freedom of speech is much cheaper.²⁵⁹ Either the dispute is settled after the ruling, or certain institutional devices such as the police system or prisons are already in place to execute state actions. In contrast, the standard for a court to determine violations of socioeconomic rights or social minimum is often less predictable because the minimum core is not a fixed concept, which varies according to economic and social circumstances. Implementing socioeconomic rights requires intricate policymaking or entirely new programs, which trigger much higher cost than implementing negative rights. Given such indeterminacy and substantial cost, it is hard to pinpoint when implementations of positive rights or judicial interventions undermine the separation of powers, other policy commitments, budget priority. Therefore, it has been argued that courts should have a negative review of socioeconomic rights, which should be directive principles that are not legally enforceable or justiciable.

Theoretically, declaratory principles can screen excessive implementation of socioeconomic rights, which might turn out to be too to “strike appropriate balances between the equally valid entitlements or expectations of a multitude of claimants.”²⁶⁰ Moreover, the lack of state action does not mean that declaratory principles cannot do something constructive. They can set precedents that forestall violations of social minimum in corresponding areas that court has ruled. Some cases in India help address these points. Part IV of the Indian Constitution sets Directive Principles of State Policy, which the Constitution says are “non-justiciable rights, which differ from fundamental rights but have equally fundamental status.”²⁶¹ In *Olga Tellis & ORS v. Bombay Municipal Corporation & ORS. ETC*, some pavement-dwellers, or people who

²⁵⁹ Tushnet, 233.

²⁶⁰ *Soobramoney v. Minister of Health (Kwazulu-Natal)*.

²⁶¹ Dorsen, Rosenfeld, Sajó, Baer, and Mancini, 1421.

lived on payments and in slums, came to the Supreme Court of India and argued that they cannot be arbitrarily evicted of their shelters unless they were offered alternative accommodation.²⁶²

The court recognizes their petition for the listed rights of Article 21 of the Constitution, which says that “no state has the right to take any action which will deprive a person of the enjoyment of basic essentials [from health protection to protection of children against abuse, education and humane work conditions.]”²⁶³ In *Ahmedabad Municipal Corporation v. Nawabkhan Gulb Khan and Others*, a following case also concerning evictions of pavement-dwellers, the Court resumed the decision of the *Olga Tellis* case by applying Article 19(1) and Article 21, which “accords right to residence and settlement in any part of India as a fundamental right.”²⁶⁴ The Court also declared that everyone should have the right to adequate standard of living to “be assured of all facilities to develop himself and is freed from restrictions which inhibit his growth.”²⁶⁵ Despite not issuing any positive action for the state, the Court sets standards for eviction and thus forestalled many similar violations of rights to shelter in similar cases. Without these rulings, the municipalities might forcibly return pavement dwellers to their home village and deteriorated workers’ situation.²⁶⁶

Nevertheless, social minimum as directive principles is very limited to work toward substantive the substantive minimum core. As rulings in India are case-bound, they only preclude violations of rights rather than guarantees legitimate entitlement to those rights. Pavement dwellers in India do not have the direct right to housing because the legislature is not constitutionally required to provide relevant housing program. Without enough actions by

²⁶² Ibid., 1422.

²⁶³ Ibid.

²⁶⁴ Ibid., 1405.

²⁶⁵ Ibid.

²⁶⁶ Ibid., 1423.

government to enable human dignity, declaratory principle is perhaps just proclamation of rights with little improvement of the current condition. In this regard, the Supreme Court of India's is critiqued for "[falling] far short of recognizing a right to housing for the average resident (or, at least, the average resident in the lower half of the socioeconomic scale)."²⁶⁷ Moreover, without governmental actions, some unintended consequences might follow after the ruling because people base their economic decisions by partly considering those rulings. It has been argued that one perverse consequence of the *Ahmedabad* case is that some organized gangs expelled the original pavement dwellers and become the beneficiaries of the judicially ordered housing development.²⁶⁸ In short, principles and transformation of reality are interrelated, and directive principles without governmental actions fail to work toward the minimum standard of living. Therefore, other ways to implement socioeconomic rights deserve serious considerations.

Directive principles only imply the absence of violations, whereas other ways do entail actual implementations as actions. As mentioned in Section II. A, directive principles, despite its insufficiency to realize basic human dignity, forestall problems such as social engineering by the court, citizens' dependency rather than autonomy, and inadequate state capacity. To reconcile the conflict between action and these problems, it is necessary to delve into specific ways for institutions to take actions rather than just discuss implementation very broadly. It is helpful to view different ways from two categories: institutions and rights. In terms of institutions, both the judiciary and legislature can implement socioeconomic rights. If the judiciary plays a dominant role and has a final say over the form, extent, and coverage of social minimum, the court would be categorized as a "strong court." On the other hand, if the court just recognizes socioeconomic rights and leaves specific ways of implementations to the legislature, the court would be called a

²⁶⁷ Ibid., 1424.

²⁶⁸ Ibid., 1423.

“weak court.” From the perspective of rights in themselves, if socioeconomic rights are enforced absolutely just like negative rights, these rights would be called “strong rights.”²⁶⁹ On the contrary, if the enforcement is qualified, that is, if rights are realized in a progressive than absolute way, these rights would be categorized as “weak rights.”²⁷⁰ By formulating the two categories, each of which consists of two elements, a matrix can be formed to help better illustrate different ways of implementation and countries whose ways of implementation fit the corresponding box.

	Strong Court (Absolute power to determine and intervene) ///	Weak Court (Court recognizes the rights, and legislature determines) South Africa
Weak Rights (Qualified enforcement)		
Strong Rights (Absolute enforcement)	Hungary Colombia	Emergency cases Italy (Life-threatening disease)

As I shall explain soon, arriving at the most coherent ways of implementation can be viewed as a movement from the third quadrant to the first quadrant for socioeconomic rights broadly and to the fourth quadrant for life-threatening emergency cases specifically. The following sub-sections illustrate how different combinations work and argue why this movement reaches the two quadrants of weak court, weak rights and weak courts, strong rights. Before the explanation, the combination of “strong court, weak rights” can be discussed very briefly. Although courts and rights are distinct concept, these two concepts do not often reconcile with each other in practice when viewed from the perspective of actual implementation. Although it is conceivable that a court has the absolute power to demand some qualified and progressive enforcement of socioeconomic rights, there is not a tension between what a court has the right to

²⁶⁹ For example, if a court rules that the right to free speech is violated, the court will absolutely enforce the freedom of speech by settling dispute at stake and demanding remedies to the injured parties. Whether a court should enforce socioeconomic rights as absolute will be discussed very shortly.

²⁷⁰ I borrow these terms from Mark Tushnet’s *Weak Courts, Strong Rights*.

do and what it actually does. The key point is instead that a court also has the absolute power to determine the exact level of social minimum and the priority of legislative affairs, which trigger some concerns of court overreach. The latter case deserves more analysis. Therefore, the second quadrant is not investigated too specifically.

1. Strong court and strong rights

This combination entails that the court has the absolute authority over legislative violations of the social minimum, and the judiciary demands the legislature to put a certain amount of resources to enforce socioeconomic rights in accordance with the conception of the judiciary. This combination puts a serious threat to undermine the separation of power because the court assumes the role of social engineering by prioritizing the pursuit of social justice over other equally important rights and legislative or budget priorities that follow from the democratic process.²⁷¹ Because of the absolute power of the court, judges can compel legislators to divert resources to certain welfare programs that they think fit, even though judges neither have the relevant information nor competence to engage in policymaking.²⁷² In this regard, it can be argued that the court endorses Wrights' conception of Statism, under which the courts exercise their unilateral and particular will over economy, leaving the legitimate claim of the community aside. Put it differently, what courts exercise is the unilateral concern of a few judges, rather than the spirit of species-being.

As explained in the quantitative distinction between negative and positive rights, a court cannot and should not judicialize positive rights the exact same way it judicializes negative rights. Because of more costs and balances among other rights and legislative priority at stake, a court should not judicialize positive rights. Doing so threatens the separation of powers. If the

²⁷¹ Kushnet, 230.

²⁷² Ibid., 231.

court has an absolute say to intervene when it sees fit, as Sunstein critiques, “[a court] will have to oversee labor markets very closely, to make such that every bargain produces the right wage. We know that the government is ill-equipped to undertake this task. Courts are in an even worse position to do so.”

There are two very possible consequences of violating the separation of powers. First, strong implementation of socioeconomic rights, which are designed to strive for a full constitutional order for all members in the political community as full citizens, risks undermining either the public institutions or corresponding public programs. If a court just applies provisions of only socioeconomic rights without considering social conditions, the separation of powers, and the constraint of resources, the arbitrary appropriation of resources to social program may exceed state capacities. Consequently, the social program or even public institutions cannot function properly; thus, implementing socioeconomic rights via strong courts, strong rights, contradicts itself. Colombia once adopted this way of enforcement and faced the above problem. In 1991, the Columbian Constitution introduced *tutela*, a type of constitutional action that citizens can use to directly request any judge in the country to protect their fundamental rights “when being violated by a state agent or an individual to which the person is subordinated.”²⁷³ *Tutela* is also applicable to socioeconomic rights, as numerous *tutela* decisions have ordered services beyond the budget.²⁷⁴ As a result, the uses of *tutela* quadrupled from 1999 to 2005, threatening to collapse Colombia’s justice system.²⁷⁵ Nevertheless, the new Court elected in 2000 confirmed that *tutela* can be used to ask for mandatory state services to protect social rights, ruling that “the sheer cost of protecting a right is not a sufficient argument for

²⁷³ Dorsen, Rosenfeld, Sajó, Baer, and Mancini, 1419.

²⁷⁴ Ibid., 1420.

²⁷⁵ Ibid., 1419.

disregarding clear constitutional mandate.”²⁷⁶ It is worried that the Columbian way of enforcing socioeconomic rights may result in overwhelming litigation that “[challenges] the very sustainability of a public health care system” and distorts efficient and just distribution of resources according to different citizens’ needs. Socioeconomic rights are necessary for one’s dignity and self-development, yet given the constraint of limited state capacity, working toward these rights should not undermine public programs and institutions as the foundational platform.

Second, excessive welfare guarantee might induce the dependency upon state rather than foster personal and civic autonomy. As people mix their economic calculations in response to state services, absolute protection of socioeconomic rights may create a sense of undue entitlement. Such an absolute enforcement is likely to induce people’s dependency on the state rather than personal autonomy to pursue their ends by themselves. This was indeed the case in Hungary during its transition from a command economy to a market economy. András Sajó criticizes that the veneer of rule of law in Hungary that ultimately undermined its welfare reform.²⁷⁷ As Hungary was undergoing its economic transition, it had to consider the demands of western lending organizations and other investors to attract capital for development, which required budget responsibility and reduction in social spending.²⁷⁸ In February 1995, the government agreed upon an austerity package, but the Constitutional Court ruled that some of the restrictions were unconstitutional.²⁷⁹ The Court then examined the legislation after its summer recess in 1995 and created a new concept of property by the claims of non-contribution for average citizens on matters of pension benefits. In addition, the Court then formulated the concept of Acquired Right, which pushed the enforcement of welfare rights to close to that of

²⁷⁶ Ibid., 1420.

²⁷⁷ András Sajó, “How the Rule of Law Killed Hungarian Welfare Reform,” 5 E. Eur. Const. Rev. 31 (1996), 31.

²⁷⁸ Ibid., 35.

²⁷⁹ Ibid.

property rights.²⁸⁰ As a result, the legislature lost half of the expected savings and thus a huge source of economic growth.²⁸¹ More importantly, many Hungarian citizens formed a false sense of entitlements without contribution and thus became dependent on the state.²⁸² Because the Hungarian government overstretched its resources to meet citizens' "entitlements," the quality of welfare services was very poor in the midst of very slow growth.

A court should strike proper balances among different fundamental rights such that these rights function as a collective whole to enable citizens to exercise and develop their autonomous power. To strike such balances, a court should refrain from the actual determination of the exact level of social minimum, isolate itself from the policymaking of social programs, and let people decide the proper balance based on economic and social conditions.

2. Weak court and weak rights

Let's keep trying to answer the question of "how to do it." The movement thus goes to first quadrant of weak court and weak rights. Under this model, a court recognizes that human dignity can be upheld only if people have the right to some basic social minimum. Unlike the model of strong court and strong right, this model does not entail arbitrary intervention or performance by the judiciary to set the exact level of social minimum. Rather, the legislature recognizes and decides the exact level of social minimum based on commonly recognized policy-making process and democratic procedure to strike proper balances among fundamental rights.²⁸³ The resultant social minimum thus functions as another commonly recognized fundamental right with equal importance compared with traditionally entrenched fundamental rights like the right to free speech and religion. Socioeconomic rights encapsulated in the social

²⁸⁰ Ibid., 38.

²⁸¹ Ibid., 35.

²⁸² Ibid., 41.

²⁸³ Cass R. Sunstein, "Social and Economic Rights? Lessons from South Africa" *Designing Democracy, What Constitutions Do*, 230-232.

minimum, therefore, function along with other rights as a collective bundle of rights to both inform the legislature to and constrain it from trespassing on these rights.²⁸⁴ After determining the specific level of the social minimum, a legislature should gradually rather than immediately implement these rights because of the feasibility constraint by limited resources and other legislative priorities.²⁸⁵ The progressive realization does not mean that the importance of socioeconomic rights is subordinated to that of negative rights. Rather, given the nature of these positive rights, the state should use the best means to realize these rights. Given the constraint of limited resources, state capacity, and other legislative and budget priorities at stake, the best means to work toward socioeconomic rights is their qualified and progressive realization rather than absolute and immediate implementation. Under this model, a court is insulated from social engineering, budget setting, and democratic procedure and recognizes the constraint of resources. Moreover, by commanding the legislature to take constitutionally required actions, it can still enforce socioeconomic rights to forestall potential violations in non-judicial forms.

South Africa exemplifies this model as shown in its constitutional case *South Africa v. Grootboom*. Like the *Ahmedabad and Olga Tellis* case, the Grootboom case was a somewhat similar case about forcible eviction. Unlike the Supreme Court of India, however, the South African Constitutional Court implemented socioeconomic rights beyond declaratory principles and preserved the separation of power without undermining other legislative priorities. The South African Constitution has many provisions of socioeconomic rights with regard to many aspects, but they can be succinctly encapsulated in the following formulas that Sunstein summarizes:

1. Everyone has the right to [the relevant good].

²⁸⁴ Ibid.

²⁸⁵ Ibid.

2. The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right.²⁸⁶

In the *Grootboom* case, the Court ruled that Section 26 about Housing is applicable to this case, which not only applies the above two formulas to housing but also stipulates that “no one may be evicted from their home, or have their home demolished, without a court order made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.”²⁸⁷ With the three provisions applied in the *Grootboom* case, the South African model of weak court and weak rights surpasses both models of declaratory principles and strong courts and strong rights for three reasons. First, as the second formula states that “the state must take reasonable legislative and other measures” to implement socioeconomic rights, the state should commit to social justice in a way that preserves the separation of powers as an integral part to the public institutions.²⁸⁸ Moreover, as the Court did not have enough information to determine the social minimum, it also admitted the lack of competence beside upholding the separation of power.²⁸⁹ In this way, unlike in Hungary, other rights and legislative priorities under the South African model retain their due consideration and importance without being undermined by the concern of equality alone. Second, the South African Constitution recognize both negative and positive elements with regard to the right to housing. People have the right to not be arbitrarily evicted from their housing, and the Constitution ensures that people have a right to housing by granting the state a positive duty to progressively realize this right.²⁹⁰ This combination makes the South African model surpasses the declaratory principle. Third, by stressing “the progressive

²⁸⁶ Ibid.

²⁸⁷ Ibid.

²⁸⁸ Ibid.

²⁸⁹ Ibid.

²⁹⁰ Ibid.

realization of this right,” the Court also recognizes the importance of the constraint of resources and state capacity; thus, the implementation of socioeconomic rights is through a progressive and gradual process.²⁹¹ In this way, the South African Model forestalls the scenario that undermines the functioning of public institutions and creates a better way to enable the equal dignity for the weaker section of the society. On the other hand, if the legislature has enough resources but actually does little to progressively realize this right, the court can arguably intervene and command constitutionally obligated actions.

The South African approach can be viewed as a complete weak-court-weak-right approach. Any absolute and strong enforcement of socioeconomic rights are not justified in *the Grootboom* and other cases.²⁹² This point needs further elaboration because as 510 of the 900 plaintiffs were children, the *Grootboom* case also applies Section 28 regarding the children’s right, which “was understood by the lower court to create an absolute right to shelter for children.”²⁹³ Sunstein pointed out that the Constitutional Court stated that Section 28 does not create an independent and absolute right for children. Although Section 28 states that the state should ensure children’s right to family care, parental care, or “appropriate alternative care when removed from the family environment,” it does not create any “freestanding obligation for the state to shelter children within the care of their parents.”²⁹⁴ Namely, because children in the *Grootboom* case had the right to their parents’ care and shelter, the state does not have the obligation to shelter them “in terms of section 28 (1).”²⁹⁵ Otherwise, creating a set of separate, strong, and absolute rights, the claims of families with children will trump other claims, or the

²⁹¹ Ibid.

²⁹² Another case in South Africa will be discussed very shortly.

²⁹³ Ibid.

²⁹⁴ Ibid.

²⁹⁵ Ibid.

rights of children will trump everything else and thus undermine progressive realization of socioeconomic rights. From this standpoint, Sunstein argues that the Court's reading of Section 28 also manifests the "judicial reluctance to intrude excessively into priority-setting at the democratic level."²⁹⁶

3. Weak court, weak rights in general, and strong rights in special cases

The South African Constitutional Court adopts a strict approach of weak court and weak rights without any room of strong rights. However, it can be argued that this model is too strict with respect to some special cases, particularly those life-threatening emergencies. As equal worth and dignity among human beings are possible only if people have the right to some basic facilities. The very foundation of people's equal worth and dignity is the right to life. Although the ideal cannot be suddenly realized, the right to life should have priority because progressive realization of socioeconomic rights cannot make sense or even begin if people do not secure a right to life. Therefore, the right to life can be argued to secure some reasonable priority and absolute enforcement.

Another case in South Africa sheds some light on this issue. In *Soobramoney v. Minister of Health*, the appellant was in the final stage of his chronic renal failure and sought treatment from the Addington state hospital in Durban to prolong his life. However, the hospital reached its capacity.²⁹⁷ The appellant argued that the hospital should provide health care based on section 27(3) of the Constitution, which stipulates that "No one may be refused emergency medical treatment."²⁹⁸ In the ruling, the court recognized that the appellant did have such rights stated in Section 27, which include the right to health care services, sufficient food and water, and the right to receive emergency medical treatment. Nevertheless, the Court qualified these rights by

²⁹⁶ Ibid.

²⁹⁷ Norman, Dorsen, Michael Rosenfeld, Sajó, Baer, and Mancini, 1432.

²⁹⁸ Ibid., 1433.

Section 27(2), which stipulates that the realization of these rights is predicated upon available resources within the state “to achieve the progressive realization of each of these rights.”²⁹⁹ As the hospital had reached its capacity and exhausted its available resources, the hospital has no further obligation to provide relevant treatment. Otherwise, the treatment of this special disease will be prioritized over others and thus generate problems for resources available for other purposes.³⁰⁰ Thus, the Court ruled that the appellant’s demand to receive treatment “must be determined in accordance with the provisions of sections 27(1) and (2) and not section 27(3).”³⁰¹

The *Soobramoney* case raised some controversy regarding the absolute enforcement of socioeconomic rights in emergency cases. In the ruling, the Court actually recognized that the right to receive emergency treatment under section 27(3). The Court ruled that a person who “suffers a sudden catastrophe” “should not be refused ambulance or other emergency services,” yet it did not elaborate how to determine the scope of “other emergency services.”³⁰² Shortly after this point, the Court said that because the appellant “would require such treatment two to three times a week,” his renal failure should not be counted as an emergency.³⁰³ This subsection does not to comment some technical medical details and standards of emergency too specifically. Rather, it just points out one potential controversy regarding the vagueness of the definition of emergency.

Regardless of the applicability of reasonable exception to this case specifically and social conditions in South Africa in general, granting reasonable exceptions may involve a dilemma that between progressive realization and the right to life based on certain social

²⁹⁹ Ibid., 1435.

³⁰⁰ Ibid., 1433.

³⁰¹ Ibid., 1434.

³⁰² Ibid., 1433.

³⁰³ Ibid., 1434.

conditions. Such a dilemma is perhaps inevitable, so the question is about diminishing the extent that this dilemma is likely to occur. The Court pointed out that if it demanded the hospital to grant some medical treatment to the appellant, it would prioritize the treatment of this particular disease over other forms of medical care or the treatment for other illnesses.³⁰⁴ It seems that the underlying worry is that treating this case as an exception to the weak-court-weak-rights approach could be the slippery slope to the Hungary or Colombian case. On the other hand, it can be argued that if the appellant's case is very rare or special, then the Court can grant some reasonable exceptions by enforcing some strong versions of socioeconomic rights, since the special case is neither universal nor widespread. Just like the freedom of exercise clause in the First Amendment of the U.S. Constitution can be interpreted as reasonable exceptions to accommodate the free exercise of a particular religion, so should the case of socioeconomic rights. To draw a line between weak rights and strong rights, the judiciary should examine empirical evidence based on social conditions more carefully and enforce some rights strongly and other rights weakly, although generally, the enforcement of socioeconomic rights in general remains progressive rather than absolute.³⁰⁵

A similar issue in Italy helps illuminate this point. A service-rationing case similar to the *Soobramoney* case catalyzed strong criticisms of the government. In response, the Italian government promulgated Act 94/1998, which authorized selected access to the “Di Bella therapy,” a multidrug treatment in the clinical experimental stage for terminally ill cancer patients.³⁰⁶ For some people who are selected, they can access the therapy for free, but others have to pay for it.³⁰⁷ Unlike the Constitutional Court of South Africa, the Italian Constitutional

³⁰⁴ Ibid., 1433.

³⁰⁵ Tushnet, 246.

³⁰⁶ Dorsen, Rosenfeld, Sajó, Baer, and Mancini, 1453.

³⁰⁷ Ibid.

Court applied equality and criteria of nondiscrimination to this case, ruling that the act unjustifiably distinguished among terminally ill patients. The underlying issue was socioeconomic inequality, which restricted the exercise of the access to health services to a certain section of society.³⁰⁸ The Council also judged that the act violated Article 3 of the Constitution, which enshrined equal social dignity and equality before the laws, and “it is the duty of the Republic to eliminate the social and economic obstacles, which impede *** the full development of the human personality.”³⁰⁹ The ruling also indicated that once the legislature authorizes the use of a drug, it generates “an expectation on behalf of the concerned patients,” which partly constitutes the social minimum to exercise the right to health, thus justifying the applicability of equality and nondiscrimination in this case.³¹⁰ With respect to terminally ill cancer, because no other alternative treatment was available, the Council ruled that the right to access to the experimental drugs is worth taking against other risks after it had examined some basic facts.³¹¹

The underlying concern of the Council was socioeconomic inequality, which restricted the exercise of the access to health services to a certain section of society. The *Di Bella Therapy* case might fit the underlying standard of reasonable exceptions, if the category of those exceptions confronted by a court is not pervasive in a society. Nonetheless, even if that is the case, some additional problems arise. It is debated whether the *Di Bella Therapy* case implicitly implies the recognition to universal healthcare, or whether the reasoning behind the treatment to terminally ill cancer can be extended into health care or even social care in general.³¹² To

³⁰⁸ Ibid., 1456.

³⁰⁹ Ibid., 1453.

³¹⁰ Ibid., 1455.

³¹¹ Ibid.

³¹² Ibid.

eliminate the arbitrary effects of economic and social inequality as a restriction upon some citizens to enjoy equal social dignity, it seems that universal healthcare is very instrumental to work toward this end. If so, then the dilemma between the constraint of resources and commitment to substantive social equality among persons is again unavoidable. To resolve the problem, one solution is to work toward the progressive realization of universal healthcare.³¹³ In this way, the dilemma between limited resources and constitutional commitment to social minimum and substantive equality is mitigated because the state expands its capacity. However, a complete, or to a lesser degree, general elimination of this dilemma is still far out of reach because not only the state always has limited capacities regardless of the expansion such capacities, but also socioeconomic rights always have limits to correct severe economic and social inequality to fully or at least generally actualize substantive human equality.³¹⁴ To resolve this dilemma, perhaps it is necessary to expand available resources to expand the capacity to a significant level. As we shall see, the reform in tax code as shown in the simple mathematical analysis in Chapter VI can provide overwhelming resources to solve this problem. This is arguably a minor reason why socioeconomic rights as the legal structure and welfare-state as the socioeconomic structure it justifies are not enough.

Nevertheless, the primary reason that socioeconomic structures alone are not sufficient to realize human emancipation is that it does very little against the unequal resources, social power, and thus liberty and equality that follow under capitalism. While these sub-sections provide a reasonable way to constitutionalize socioeconomic rights and thus answer the “how to do it” question, this answer is arguably partial. The requirement of socioeconomic rights is only a

³¹³ Ibid., 1456.

³¹⁴ This point will be discussed in the next section.

partial exercise of the rights of citizen. What it requires is quite a modest regard for fellow citizens but may leave capitalist accumulation largely intact.

III. The Limit of Welfare State

It should be stated welfare state is still far from enough to tame alienation in capitalist in markets and thus emancipate human beings. Although the above analysis answers the “how to do it” question, it only partially constitutionalizes the rights of citizens. To fully illustrate this point, for people who either agree or disagree on the public ideology formulated in Chapter II, this ideology and Rawls’s difference principle can both be used to illustrate this point.

As Rawls argues that the two principles apply to the basic structure as public institutions, he also lists five socioeconomic systems as the basic structure and evaluates their potentials to realize the two principles and reach a higher level of justice. Although Rawls argues that some Capitalism-transcending-socioeconomic systems such as property-owning democracy and liberal (democratic) socialism better correspond to justice, he never explicitly describes the components of these systems. Given the unclarity of Rawls’s conception of Socialism, this chapter focuses on the comparison between welfare-state capitalism and property-owning democracy, and Chapter VI will discuss different forms of Socialism more specifically. This chapter concludes with a general agreement with Rawls that welfare-state capitalism, grounded in socioeconomic rights only, faces insurmountable limits to realize both Rawlsian social justice and human emancipation as the goal of this paper, whereas property-owning democracy can overcome those limits.³¹⁵

³¹⁵ John Rawls, *Justice As Fairness: A Restatement*, 136.

Although Rawls indicates that liberal (democratic) socialism also meets the requirement of the two principles of justice, he does not describe this system very specifically.

According to Rawls's formulation, welfare-state capitalism has a market economy, guarantees a social minimum, but "permits a small class to have a near monopoly of the means of production."³¹⁶ On the other hand, property-owning democracy has very dispersed ownership of the means of production and "thus [prevents] a small part of society from controlling the economy, and indirectly, political life as well." Rawls argues that it is property-owning democracy rather than welfare-capitalism that can fulfill the two principles of justice. In property-owning democracy, citizens generally own sufficient productive assets, which work as parts of primary goods for citizens to "manage their own affairs on a footing of a suitable degree of social and economic equality."³¹⁷ To cooperate as full and equal citizens, these productive capital include both physical and human capital such as the means of production and "an understanding of institutions, educated abilities, and trained skills."³¹⁸

In contrast, Rawls argues that welfare-state capitalism "rejects the fair value of the political liberties."³¹⁹ Although it has some commitments to equality of opportunity, the policy measures are not enough to regulate economic and social inequality detrimental to the public interest. As the ownership of real property as productive assets and natural resources rests in the hands of a few, they are thus able to control the economy and much of political life.³²⁰ Namely, in terms of equal and as extensive liberty, fair equality of opportunity, and the difference principle. Rawls elaborates why welfare-state socialism necessarily does not conform to the two principles for three reasons. First, as the few who control the means of production also can translate their economic power into political influence, thus "[enacting] a system of law and

³¹⁶ Ibid., 139.

³¹⁷ Ibid., 139.

³¹⁸ Ibid., 140.

³¹⁹ Ibid., 137-138.

³²⁰ Ibid.

property that ensures their dominant position in the economy as a whole.”³²¹ Second, Rawls indicates that large political and economic inequality is often associated with unequal social status and may prompt those with lower status to view themselves and be viewed by others as inferior. The inequality of social status necessarily evolves into social inequality, thus making substantive equality among persons as a distant dream under welfare-state capitalism.³²² Third, Rawls also critiques the tendency of welfare-state capitalism to induce a sense of dependency on welfare for the underclass who have a substantive lower social status and may even be “discouraged and depressed.”³²³ This conception of persons that might be developed in welfare-state capitalism directly contradicts the free and equal conception of persons who autonomously set and pursue their ends and act as fully cooperating members of society.

Regarding the public ideology proposed in this paper, apart from the convergence between the public ideology and Rawls’s justice as fairness, welfare state does not have enough commitment equality of resources. Given the acquisitive pursuit of wealth thanks to the preponderant ownership of the productive asset, those with productive assets only have minimum concern to those who are the least-advantaged and very meagre concern to citizens who are above the social minimum. In this regard, property-owners do not carefully evaluate how they should contribute to social resources for their fellow citizens. Therefore, welfare-state capitalism with a mere social minimum does not respect equality of resources.

³²¹ Ibid., 130-131; Martin O’Neill, *Liberty, Equality and Property-Owning Democracy*, Manchester Centre for Political Theory, 2009,

<http://hummedia.manchester.ac.uk/schools/soss/politics/research/workingpapers/mancept/ONeill-LibertyEqualityandProperty-OwningDemocracy.pdf>, 9.

³²² Ibid., 131; 9.

³²³ Ibid., 140.

At this stage, it might be concluded that socioeconomic rights alone have serious limitations to realize substantive equal citizenship and social justice according to the standard of Rawlsian justice and human emancipation. However, The potential of welfare-state regime thus needs serious examination. This paper would argue that welfare-state capitalism still has the potential to realize equal and as extensive political liberties but fails to realize fair equality of opportunity and the difference principle or equality of resources. Rawls argues that as the few who have very concentrated control over the means of production can translate their economic power into political influence and thus controls the economy and “much of political life.” Namely, the source of political control is the political power as a result of the control of productive assets in the hands of a few. If it is possible to institute certain institutional designs that insulate the political influence that flows from the concentrated ownership of the means of production, then theoretically equal citizenship in the political spheres can be realized.³²⁴

In this regard, Numerous scholars have formulated their policy proposals to insulate undue political influence. For example, Bruce Ackerman argues that presidentialism with too much competition of power is inherently susceptible to the influence of special interest groups.³²⁵ As too much competition of power creates fragmented dissonance both between the executive and the legislature and within the legislature itself, such fragmentation further induces fragmented accountability for the bureaucracy, which must be answerable to delegations from different legislators’ as stakeholders and finds it difficult to maintain its independence.³²⁶ Moreover, as legislators were influenced by special interests, and bureaucrats face fragmented

³²⁴ O’Neill, 17.

³²⁵ Bruce Ackerman. "The New Separation of Powers." *Harvard Law Review* 113, no. 3 (2000): 703. doi:10.2307/1342286.

³²⁶ Ibid.

accountability to legislators, interest groups with excessive political power also influence bureaucratic decision-making, which is supposed to maintain their robust professionalism and take popular preferences into due consideration.³²⁷ To contain such influence, Ackerman argues that parliamentarism is less susceptible to such risks because of strong unity and consensus-based decision-making between the executive and the legislature and less fragmented accountability for the bureaucracy.³²⁸ Moreover, Ackerman also proposes to the “integrity branch” and “regulatory branch” further mitigate undue influence of special interests.³²⁹ The former should scrutinize government for corruption, patronage and other similar issues, while the latter requires the bureaucracy to disclose and explain processes and standards of its policymaking. Despite tremendous if not insurmountable difficulty, if these reforms are indeed feasible and effective, the public institution can generally insulate itself from the undue influence of power that flows from the control of productive assets. Other studies and inquiry can complement this normative assessment by evaluating different approaches to reform based on concrete empirical studies.

Despite the theoretical justification to realize equal and as extensive political liberty as the first principle, Rawls is arguably right that welfare-state capitalism does not entail sufficient commitments to correct both economic and social inequality as a result of a few’s the concentrated control over the means of production. In social interactions, as the social structure is largely determined by its productive relations, those who control the means of the production will have the power to determine and reinforce such relations of productions and social relations

³²⁷ Ibid., 699.

³²⁸ Ibid.

³²⁹ Ibid., 694-696.

to consolidate their dominant status.³³⁰ Therefore, to substantively realize people's equal status and dignity, it is necessary to disperse more control over productive assets and correct both economic and social equality, thus justifying capitalism-transcending systems. In comparison, as welfare-state capitalism in its most perfected form can generally realize the first principle only, while capitalism-transcending systems can generally realize both the first and second principles, in terms of both Rawlsian justice and the public ideology of human emancipation. Therefore, welfare-state capitalism is still superior form of socioeconomic system to work toward substantive human equality. Moreover, institutional designs to contain undue influence of special interest groups are arguably easier to be implemented under in a social system that transcends capitalism, as people empowered by the ownership of productive assets will have enlarged political power to demand those reforms. In short, welfare-state only modestly empowers civil society over their economy, and socioeconomic rights only partially recognize the rights of citizens. There is still a long way to go on the road to human emancipation.

To clear some potential misunderstanding, it shall not be construed that "insufficiency implies rejection." Although socioeconomic rights and welfare state fall short, they are still necessary legal and socioeconomic structures to constitute Social Economy that realizes the public ideology emancipation. In fact, each component of these structures outlined in Part II is not enough by themselves, but each is still necessary to mutually complement each other to realize human emancipation.

Moreover, it shall never be construed that the public ideology of human emancipation is a form of welfare liberalism, or the limit of liberalism is some forms of welfare liberalism.

³³⁰ Rawls, *Justice as Fairness: A Restatement*, 131.

Interestingly, Dworkin's equality of resources is sometimes interpreted as a form of welfare liberalism. It might be argued that given that welfare liberalism is not enough to realize human emancipation, its inadequacy justifies the transcendence of capitalism. However, what I attempt to do in this paper shall not be construed in this way. As argued in Chapter II, after combining Rawls and Dworkin, fusing liberty and equal resources in both basic and non-basic structures, what the public ideology requires is equalization not only of resources but also social power. Therefore, what the public ideology requires drastically surpass just the requirement of welfare in terms of resources and social power. For resources, as stated, welfare systems alone do very little to undercut the law of capitalist accumulation and tolerate a glaring level of inequality. For social power, even if it can be shown that welfare system can equalize resources, people without social power are just like domesticated animals as illustrated in my critique to Tomasi in Chapter II, and this type of scenario is intolerable according to the public ideology of human emancipation. Moreover, even judged from the market socialism, it has been argued that Dworkin's equality resources require social systems that undercut capitalists' acquisitive accumulation both in terms of resources and social power, far beyond the requirement of welfare liberalism.

This chapter thus finishes the discussion of constitutionalizing socioeconomic rights as the partial rights of citizen. Welfare-state is just the first step. To further march toward human emancipations, other components should be deeply explored in following chapters, in terms of both their justification and ways to realize them. The next necessary component is workplace democracy as an essential part of economic democracy. Chapter V thus tries to justifies workplace democracy and answers the corresponding question of "how to do it."

Chapter V: Transcending Capitalism I – Workplace Democracy

Now let's explore the next necessary socioeconomic structure of Social Economy. The public ideology should also apply to markets. Private entities should obey and internalize the two principles to fulfill their obligations in the pursuit of human emancipation. Moreover, private entities should have the ethos to be motivated by not only interests only in oneself and but also considerations toward others for whom socioeconomic resources matter greatly. In this way, they are working toward general economic equality without disincentivizing, or to put it mildly, without disincentivizing too much their production and thus diminishing liberty and opportunities. After explaining the authoritarianism of corporations as private government, the chapter proposes reforms called workplace democracy as a key component in social empowerment over the economy. The ideal workplace democracy, empirical constraints, and existing practices of various workers' participation in corporate governance and ownership will be thoroughly discussed. After such discussions, the chapter will try to answer the "how to do it question" by concluding that given the nature of ideal workplace democracy and empirical constraints, perhaps the best a society can do is some forms of attenuated forms participation and ownership in the private sphere. Fortunately this attenuated ownership still fulfills species-being within firms because no capitalist under such structure have disproportionate resources and power within firms. However, addressing problems within firms is not enough, as the private interests of democratized firms may still be at variance with the public interest. Therefore, further socioeconomic structures are necessary to complement welfare state and workplace democracy.

I. The Tyranny of Private Government

It might be questioned why the firms need democracy, and the corporate world seems to do well without it. This is a very intuitive claim. In fact, the corporate world does not do well. When only a few capitalists have the right to control and residual earnings, corporate structures are essentially tyranny.

Smith hopes that markets can eliminate people's dependency on and subordination to other's arbitrary will. Nevertheless, Smith did not foresee the effects of horrendous alienation created by massive industrialization and corresponding economies of scale. As Elizabeth Anderson argues, the effect still lingers on today in corporations as private government, under which "(1) you are subordinate to authorities who can order you arbitrarily and sanction you for not complaining over some domains of your life, (2) the authorities treat it as none of your business, regarding what order it issues or why it sanctions you."³³¹

What does Anderson mean by "private government?" Why do firms as private governments fall short of Smith's vision of just interactions? The term "government" here is understood as a coercive structure. On the one hand, a firm is private in the sense that it is not the public platform for all citizens. It functions as a private entity with the rights to determine its own practices, exclude other people, and have claims of non-arbitrary interferences by the government.³³² On the other hand, it is "public" to those who are in the structure with respect to "standing, decision making, and accountability."³³³ In other words, firms are unavoidably coercive, but a coercive structure is legitimate only if people do not confront arbitrary interference and retain their independence and equal respect. To retain people's independence,

³³¹ Elizabeth Anderson. *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)*. Princeton, NJ: Princeton University Press, 2017, 34.

³³² Ibid., 44.

³³³ Ibid., 43.

the rules of the firm should be general, public, and acceptable to workers, and workers should also have legitimate claims of their own interests, hold those at the top accountable, and exercise their judgement in governing the structure, and secure their independence.

Nevertheless, nowadays the authority of firms seems to step far beyond its legitimate spheres. Malpractices within firms are very frequent such as uncertain, unpredictable business trips, overtime work, dangerous, dirty, and menial jobs, sexual harassment, unjustified layoff, etc. Moreover, the authority of firms even steps into workers' off-duty life by interfering in workers' choice of sexual partner, political candidate, Facebook posting, etc.³³⁴ All of these are subordination to others' arbitrary and unaccountable wills. Moreover, these phenomena also confirm that alienation is far from eliminated in contemporary markets, as workers are deprived of due empathy and respect in their communities, or they would not affirm themselves and others in their productive activities because their production is utterly dependent on others' arbitrary wills.

To address or at least mitigate these issues, Anderson proposes four broad solutions. First, workers' rights to exit should be guaranteed and strengthened so that workers can have choices when they are subject to unfair treatments. The right to exit is necessary but far from sufficient, as other choices can be just as bad, so more steps are needed.³³⁵ Second, to eliminate subjection on other's arbitrary will, corporations should also be governed under a "rule of law," as principles that governs firms' operation should be public and general by respecting employees' interest and dignity, so that employees themselves can also accept.³³⁶ To produce efficiently, oversight and regulated coordination on a centralized goal are necessary, as workers

³³⁴ Ibid., 38.

³³⁵ Ibid., 66.

³³⁶ Ibid., 67.

cannot do everything as they like once they are in the firm. Nevertheless, firms should promulgate “laws” that specify terms of production and qualify the scope of oversight, so that workers can work according to goals they agree themselves, constrain the scope of the firm’s otherwise unlimited authority, and retain the room to exercise their autonomy, intellect, and judgements to address new circumstances.³³⁷ Third, workers should also have guaranteed constitutional rights that firms can never infringe. Workers should also have liberty in their private spheres, as they do not belong to public aspects of “private government.”³³⁸ Fourth, workers should also have voice to hold managers accountable. They should have voice and be represented to reflect their conditions of working, complaint, and concerns so that their fundamental freedom, interests and dignity are upheld.³³⁹

Here I also complement Anderson’s proposal by stating the relations between the basic structure and firms. As firms do not belong to the basic structure as the government, the government should not dictate what firms should do. Nevertheless, the basic structure has the authority to legislate laws that specify duties private entities including firms should share. For example, the government has no authority to always dictate how family members interact with each other, but that does not mean that the government should not stipulate just terms of living within family and outlaw unjust behaviors like domestic violence. Likewise, the government should stipulate civil duties in terms of a just corporate structure and treatment to employees, and firms should internalize the two principles and obey new laws promulgated by exercising their empirical knowledge to make reforms accordingly.

³³⁷ Ibid., 67.

³³⁸ Ibid., 68.

³³⁹ Ibid., 69.

Anderson's proposal works toward not only Smith's ideal of personal independence but also the public ideology of equality by instituting workplace republicanism. Like Smith, I also agree with Rawls believes that people should "have the right for personal independence and a sense of self-respect, both of which are essential for the adequate development and exercise of the moral powers."³⁴⁰ Independence and self-respect should also be treated as primary goods under the public ideology. To enable people to have independence and self-respect, people should have the "political and social conditions essential for the adequate development and full exercise of the two moral powers of free and equal persons."³⁴¹ To secure such conditions, people including corporations should have a sense of justice and the capacity for a conception of the good. More specifically, the first is "the capacity to understand, to apply, and to act from the principles of political justice that specify the fair terms of social cooperation."³⁴² Because Anderson's proposals aim to secure everyone's independence and self-respect, they help to secure the social conditions for free and equal persons. In this way, Anderson's proposal helps to expand workers' liberty and opportunity. Although Anderson does not seem to mention the equality principle, the requirement of more economic equality within firms is compatible with the proposal. For example, the rule of law and voice work as conditions to nudge employers to think about the relations between managers' wage and even ownership and others' liberty and opportunity. The requirements of publicity and generality of firm's regulations also constrains the wage that a very acquisitive manager may desire and better works toward the economic equality than the absence of such requirements within a corporation. Moreover, as we do not

³⁴⁰ Nien-hê, Hsieh. "Rawlsian Justice and Workplace Republicanism." *Social Theory and Practice* 31, no. 1 (2005): 118. <http://www.jstor.org/stable/23558690>.

³⁴¹ Ibid., 118.

³⁴² Ibid.

expect many firms to receive sudden moral epiphany and reform their structure and practices, public government as the basic structure can also issue legislations that demand reforms in outlaw certain structures and practices that are equivalent to imposing one's arbitrary will to another. This does not make firms subject to the arbitrary will of the government, as the government sets ends that should be agreed upon by employers and employees, and firms enjoy the discretion to affirm the laws and put them into practice.

Because Anderson uses a just public government to illustrate the structure of a just private government as coercive structures, and democracy, if properly designed, has strong appeal as a just coercive structure for various reasons, it might be argued that workers should have democracy in the workplace, and Anderson should explicitly make this point clear in her proposals. Today we have a political democracy, but the prevalence of private government is one if not the only aspects that demonstrate the lack of economic democracy. To eliminate the tyranny of private government, it is argued that workers should have the right make decisions for the firm and own the means of production. It is thus necessary to discuss whether workers should rule and own the firm, and if so, how workplace democracy should be structured, and if not, what else a society should do better than private government.

II. Workplace Democracy: Justification and Constraints

The idea of workplace democracy is very straightforward. If democracy is justified in the political sphere, it should also be justified in the economic sphere.³⁴³ Otherwise, workers will be ruled under the tyranny of private government as Anderson excellently argues. While the

³⁴³ Robert Dahl, *A Preface to Economic Democracy*, Berkeley and Los Angeles, CA: University of California Press, 61-62.

economic sphere incorporates many subsets, this chapter mainly focuses on corporations as private government, which ideally should be structured as workplace democracy. In workplace democracy, one person should have the right to one vote and the access to residual earnings, thus exercising democratic control over the allocation of profit and other corporate resources.³⁴⁴ In large firms, workplace democracy should be representative democracy rather than democracy. In such a representative democracy, its corporate citizens should have the right to elect representatives or managers to whom citizens delegate their authority to determine terms of production, corporate citizens' "constitutional rights" within firms, wages, working conditions, and the uses and allocations of profit and other economic resources of the firm.³⁴⁵ Because of the representative nature, the concerns that employees lack managerial skills can be ruled out because workers only need basic judgements to elect representatives rather than managerial skills.³⁴⁶ Moreover, as the paper will examine in some case studies, participation and ownership can be structured in ways to train managerial skills for employees very effectively.³⁴⁷

Does workplace democracy realize the public ideology of human emancipation? It is indeed a great leap forward. As Cohen persuasively argues that the public principles should be applied both within and beyond the corporate structure, workplace democracy shall be evaluated both within corporations and public, political spheres. In terms of equal political liberty, the equal vote satisfies this principle, as all worker have equal right, power, and says over their productive activities.³⁴⁸ In principle, the number of shareholders who own a given enterprise shall be sufficiently large, such that no person's ownership and thus voting power can dominate

³⁴⁴ Nien-hê Hsieh, "Work, Ownership, and Productive Enfranchisement," in *Property-Owning Democracy – Rawls and Beyond*, edited by Martin O'Neill and Thad Williamson, West Sussex, UK: Wiley, 149-162.

³⁴⁵ Ibid.

³⁴⁶ Henry Hansmann, *The Ownership of Enterprise*, Cambridge, MA and London, England: The Belknap Press of Harvard University Press, 114-117.

³⁴⁷ Ibid.

³⁴⁸ Hsieh, 151-152.

the rest of his or her fellow corporate citizens.³⁴⁹ Moreover, a fair distribution of profit among corporate citizens dilute the concentrated property over an otherwise small number of holders, thus diluting the excess political influence, and stimulate better solidarity and civic-mindedness in the public sphere.³⁵⁰ In terms of fair equality of opportunity, worker participation and ownership generate many new opportunities, especially the basic opportunity to live and work independently without being dependent on labor income and subject to arbitrary interference both within and outside firms.³⁵¹ With the equal right to participate in a firm's governance, allocation, and distribution of profit, workers would can have the opportunity to engage in meaningful work and forestall their enterprises from taking advantage of their vulnerability, thus eliminating exploitation and thus objective alienation in the workplace. Workplace democracy also mitigates subjective alienation because workers have much more opportunities to exercise their judgements, initiatives, intellects, and discretion, thus opening a higher possibility to achieve self-realization and mitigate if not eliminate monotonous works. In terms of general economic equality, the right to residual earnings can approximate this ideal within firms, if no one has the disproportionate shares within firms. Moreover, the collective participation can also allow corporate terms to be structured to the special needs of employees, such as those with certain diseases or need to pay their children's tuition, to whom economic resources matter more.³⁵² Besides economic equality, workplace also realizes the equality of social status. Under workplace democracy, everyone under the corporate structure is partner, and the distinction

³⁴⁹ Piketty, *Capital and Ideology*, 974-975.

³⁵⁰ Dahl, 94-97.

³⁵¹ Hsieh, 153-155.

³⁵² For instance, Starbucks is organized as a partnership model, under which there are mechanisms to allocate corporate residual earnings to employees (partners) in urgent needs; see *Starbucks Stories * News*, <https://stories.starbucks.com/>, accessed May 10, 2020.

between capitalists and wage-earners is extinguished, just as the distinctions between lords and serfs, masters and slaves, were extinguished in the past.³⁵³

Nevertheless, workplace democracy also falls short a little to fully realize the public ideology. Although workplace democracy as explained has forces to better realize equal political liberty in public and private spheres, it also contains forces that may fail to realize equal liberty particularly in the public sphere. Although more economic equality within firms dilute political influence of otherwise capitalists with concentrated control and ownership, partners of larger firms may collude together to exert greater political influence and sway political decisions in favor of themselves. This is more likely to be the case if partners of a given firm have homogeneous interests, which tend to be a feature of current firms with relatively more extensive worker participation and ownership.³⁵⁴ Although institutional responses such as anti-trust laws, reforms in campaign finance, and Ackerman's proposals may contain such influence, it is unclear how much influence a large firm consisted of numerous partners will be.

Nevertheless, workplace democracy may fall short of fair equality of opportunity because of the production of public bads or negative externality. In capitalist markets, firms under private owners of capital produce in order to maximize their utility but fail to consider the external cost of productions on other parties, thus failing to make their firms produce at a socially optimal level. It has been argued that as control and ownership are more widely dispersed, the ownership of firms, firms will be more representative to citizens in general and thus will be more likely to produce at the optimal level to reduce public bads.³⁵⁵ Nevertheless, there is no guarantee that

³⁵³ Hsieh, 155-158; Wright, 250-251.

³⁵⁴ This point will be explained in details soon.

³⁵⁵ Roemer, *A Future for Socialism*, 55-59.

partners of a given firm in workplace will resemble citizens in general. For example, partners of a factory in the interior part of a piece of territory are less affected by rising sea levels than residents in coastal areas, so they will continue their mode of productions without addressing the problems of public bads. The problem of public bads may further impair fair equality of opportunity by causing disruptions in other citizens' life. Finally, general economic equality within firms may fail to translate into equality in society in general because democracy within firms does not preclude inequality among firms, inequality due to undiversified risks for employee-partners, and inequality of social power for those who are not partners. Although welfare state can partly remedy the last type of inequality, the socioeconomic structures proposed so far cannot address the first two types of inequality.

Therefore, workplace democracy is a great leap forward to march toward human emancipation, but equipping it alone is not enough. As many problems explained above are public problems by nature, workplace democracy as an approach in the private sphere arguably falls short of effectively wrestling with such problems. This insufficiency thus justifies more approaches in the public sphere, which will be discussed in the next chapter. Before delving into these public approaches, we have to answer the “how to do it” question for Marx. Before answering the “how to do it” question, perhaps it is necessary to first answer the “can it be done” question. Perhaps the best of what a society can do is some attenuated forms of worker participation and ownership. Nevertheless, this attenuation is relative to worker cooperatives, and it does not compromise what public ideology requires within firms. To put it simply, workplace democracy can surely be done, and “how to do it” is just a matter of will.

III. The Current Practices and the Future of Workplace Democracy

Workplace democracy in its ideal forms to a large extent speaks to the ultimate moral ideals, but as explained in Chapter III moral ideals are not always feasible because of empirical

constraints. In practice, what people and society act upon are rules of regulations, which balances other values and take empirical constraint into the account. Because empirical constraints and other values such as efficiency, perhaps workplace democracy can exist in only in some attenuated forms, although such attenuation does not compromise the requirement of public ideology. Henry Hansmann's research and existing practices of worker participation and ownership can shed some light on this.

In *The Ownership of Enterprise*, Hansmann offers a theory of ownership that tries to explain the forms and distribution of ownership in different industries. Why does an economy display a variety of ownership more than just investor ownership? Why do some industries tend to have certain types of ownership rather than other types? Hansmann argues that firms should be viewed as a nexus of contract in order to answer this question. More specifically, a certain type of ownership is prevalent under particular circumstances because such ownership organizes the nexus of contract in the most efficient way.³⁵⁶ In its operations and business dealings, a firm has to interact and contract with many patrons such as investors, employees, consumers, suppliers, and other actors. When contracting with the firm, these patrons face different types of cost. For example, consumers may face more cost in terms of higher prices if the firm she contracts with has more market power and asymmetric information regarding their products and services.³⁵⁷ Suppliers may face more or less cost to sell their products depending on the number of firms available to sell, which influences the bargaining power for both parties.³⁵⁸ When working for a capitalist firm, workers inevitably faces alienation, which definitely has an exceeding cost.³⁵⁹ On the other hand, corporate executives also face higher costs if workers

³⁵⁶ Hansmann, 19-20.

³⁵⁷ Ibid., 24-25.

³⁵⁸ Ibid.

³⁵⁹ Ibid., 31-33.

cannot effectively communicate their preferences at work and thus fail to understand the conditions of maximum productivity.³⁶⁰ To put it simply, when contracting with a firm, different types of patrons face distinctive costs of contracting, which plays a key role to assign the ownership of an enterprise.

Does it mean that ownership is given to patrons with the highest cost of contracting? Maybe but not necessarily because ownership also has its cost. For example, for owners of firm, they have to hire and motivate managers to manage the firm well, but managers' interests do not fully coincide with owners, and managers may use room of opportunism to manage firms in ways they see fit but contrary to owners' profit.³⁶¹ In this sense, owners face the cost of controlling managers or agency cost and the cost of managerial opportunism. Besides managers, owners also need to monitor employees to ensure that they work productively, and owners have to find ways to motivate employees.³⁶² Moreover, owners have to collectively make decisions, during which they will face the cost of decision making, the cost of resolving conflicts, and the cost of corresponding procedures.³⁶³ These examples demonstrate that ownership also triggers various types of cost. As a firm as a nexus of contract has two broad types of cost, the ownership of an enterprise is given to this type of owners because organizing firms in this way minimizes the sum of the cost of contracting and the cost of ownership. For all types of patrons, if they have the highest cost of contracting without ownership and the lowest cost of ownership, they will be the most efficient owners.³⁶⁴

³⁶⁰ Ibid, 30-31.

³⁶¹ Ibid., 37-38.

³⁶² Ibid., 36-37.

³⁶³ Ibid., 39-43.

³⁶⁴ Ibid., 47.

In terms of workplace democracy, Hansmann argues that the determinant factor behind whether a firm is likely to be employee-owned is the cost of collective decision-making. Employees indeed face multiple costs of contracting, such as the cost of asymmetric information, communications of their preferences, lock-in, and of course alienation. However, Hansmann finds out that in firms where employees face high costs in these areas, firms do not tend to be employee-owned.³⁶⁵ Rather, in employee owned firms, Hansmann finds that different types of costs are present but tend to be low enough, except for the cost of collective decision making.³⁶⁶ In successful employee-owned firms, employee-owners' interests are relatively more homogenous as manifested in similar work, narrow types and levels of skills, and little hierarchical authority.³⁶⁷ Moreover, these employee-owned firms tend to have structures to avoid the cost of collective decision making and promote homogeneity interests, such as commonly agreed upon criteria of distributing shares and rotation of works that reduce specialization in one area.³⁶⁸

Hansmann's empirical research tries to explain the forms of ownership as they are today from the efficiency of corporate law, and he uses a more expansive analytical framework than economic analysis of law. Nevertheless, it is important to point out that different categories of costs are very intangible and can hardly be quantified. Although Hansmann's conclusions are plausible given his detailed research into various industries, they are arguably not conclusive. For instance, one could argue that the cost of alienation is probably exceedingly high, but workers face higher cost of power imbalance, which may cost them to starve. Mandates by political institutions may alter such power imbalance and create background conditions such as

³⁶⁵ Ibid., 66-88.

³⁶⁶ Ibid.

³⁶⁷ Ibid., 91-92.

³⁶⁸ Ibid., 92-97.

better credit and insurance policies. In this way, political institutions create the background conditions for workers reduce the severe cost of alienation by owning firms.

Nevertheless, can all of these empirical constraints be removed? While the answer may not be fully definitive for worker-owned cooperatives, current evidence show reasons to be optimistic, especially for workplace democracy, which is an attenuated forms of participation and ownership compared with cooperatives but does not compromise the spirit of the public ideology.

III. The Current Practices and Future of Workplace Democracy

Hansmann argues that corporate structures and their corresponding are organized and formulated in such ways because they are efficient. Applying this theory to some existing practices of employee ownership does seem to confirm that workers participation and ownership are attenuated to balance efficiency. Nevertheless, these practices also shed promising light on the feasibility of the proposed version workplace democracy, which I call “neopartnership.” Before explaining this concept, let’s examine different practices of ownership and control within firms.

Employee-Stock-Ownership Plans (ESOPs)

ESOPs has been a practice for workers to own various amount of stocks of their companies. Under ESOPs, the amount of stock a worker can get is based on “relative pay or some more equal formula” such as seniority.³⁶⁹ Employees can liquidate their stocks after retirement, and companies must buy back their stocks.³⁷⁰

Despite the ownership of stocks, workers often cannot exercise substantive controls over their firms. ESOPS are designed differently in privately held and publicly traded corporations. In

³⁶⁹ The official page of The National Center for Employee Ownership, <https://www.nceo.org/>, accessed May 10, 2020

³⁷⁰ Ibid.

private held corporations, although it is required that must be able to vote their shares on major issues, the right to vote can be exercise by the plan's unelected trustees and not passed to employees.³⁷¹ In public traded companies, employees must be able to vote on all issues, and voting power must be passed through the employees, but there are very few public companies where employees own more than 20 percent of the firm's stock, so employers' and other shareholders' employees are still bigger than employees'.³⁷² Moreover, because of the problems of illiquidity, workers' risk is not diversified widely, particularly for workers whose assets are concentrated in the firms they work.³⁷³ The non-substantive participation by workers also present few opportunities to manage these risks. The ESOPs became popular after they were granted benefits in federal taxes since 1974, so it has been argued that nowadays corporations use ESOPs mainly as way to secure tax benefit.³⁷⁴ Despite ownership and limited control, the relations of firms with ESOPs are not drastically different from capitalist firms. Nevertheless, ESOPs can provide some perspectives to fairly distribute profit among workers as partners, and they show that such a distribution is very feasible.

Mondragon

The Mondragon Corporation is a Spanish corporation and federation of worker cooperatives, which span across a wide range of productions and services such as consumer goods manufacturing, furniture making, and agricultural production.³⁷⁵ It began as a 24-worker cooperative and gradually expanded in size and scope after the *Caja Laboral Popular*, the central

³⁷¹ Ibid, 106-107.

³⁷² Ibid.

³⁷³ Ibid.

³⁷⁴ Ibid., 106.

³⁷⁵ Wright, 204.

bank of Mondragon, linked different cooperatives and provided capital, legal, R&D, and other services for each cooperatives.³⁷⁶ Mondragon is today hailed as a very successful case of live workplace democracy and employee-owned cooperative at a large scale.

Workplace democracy in terms of participation in Mondragon is manifested both within each individual cooperative and the federation of cooperatives. Each cooperative adopts a dual structure of governance: the Sociopolitical Structure and the Techno Structure.³⁷⁷ Under the Sociopolitical Structure, worker-owners directly elect their representatives to the annual General Assembly of their cooperatives, which appoints cooperative managers and determine the broad strategies of cooperatives.³⁷⁸ The Techno Structure is in charge of technical and managerial works of cooperatives and is under the control of the Sociopolitical Structure.³⁷⁹ In Mondragon's federation of cooperatives, known as the Mondragon Cooperative Corporation (MCC), each cooperative contributes a portion of its profit to the federation.³⁸⁰ MCC has representative council, in which individual cooperatives chose their representatives to sit on various sub-councils and standing committees, which coordinate between different cooperatives, promote synergy among cooperatives, and formulate long-term development plans for MCC as a whole.³⁸¹ MCC allows worker transfer among cooperatives and encourages cross-subsidy among cooperatives on a voluntary basis in difficult times, thus fostering a strong sense of solidarity.³⁸² Each cooperative retains its right of withdrawal.³⁸³

³⁷⁶ Ibid., 240-241.

³⁷⁷ Ibid., 242.

³⁷⁸ Ibid.

³⁷⁹ Ibid.

³⁸⁰ Ibid.

³⁸¹ Ibid., 242-243.

³⁸² Ibid.

³⁸³ Ibid.

In terms of control, Mondragon's workplace democracy is attenuated but sufficiently robust. 20 earnings cannot be appropriated and must be used for reinvestment purposes, and 70 percent is invested in employees' accounts.³⁸⁴ Employees cannot withdraw except after their retirement, but their share earn an annual interest of 6 percent³⁸⁵. Hansmann comments that this types of control is attenuated, but it seems that the target of comparison is full worker cooperative. In terms of the standard of workplace democracy, *Mondragon* is fully compatible with its requirement, as no member has disproportionate share and control; firms operate accordingly to democratically set principles, and members' "constitutional rights" are guaranteed.

The case of Mondragon demonstrates that workplace democracy organized in ways extremely close to its ideal form is not only desirable, but also feasible.

Codetermination

Codetermination is the reverse of ESOPs: participation but no control. It is the practice prevalent in Germany and Nordic countries that enable employees to participate in corporate governance and exercise substantive control by electing representatives to the governing board.³⁸⁶

Initially applied in the German coal and steel industry in 1951, codetermination had been gradually dispersed in German industry since 1952 and was formally institutionalized by the Co-Determination Act of 1976.³⁸⁷ The act requires companies over 2000 employees to elect

³⁸⁴ Hansmann, 100.

³⁸⁵ *Ibid.*

³⁸⁶ Piketty, 972.

³⁸⁷ *Ibid.*, 110-111.

workers' representatives to half of the supervisory board.³⁸⁸ It applies to all German publicly-traded companies cooperatives, private limited companies, and partnerships, if they have over 200 employees.³⁸⁹ By granting workers' substantive participation, codetermination approximates workplace democracy by workers. In theory, it can mitigate alienation because workers can have some controls over their working conditions and prevent capitalists from exploiting their vulnerable situations. Moreover, the Codetermination Act also deals the heterogeneity of interests very interestingly: it requires at least one representative from each one of the following three categories: wage earners, salaried employees, and managerial employees.³⁹⁰

Nevertheless, the absence of ownership makes co-determination representative inadequate compared with the standard of workplace democracy. One has the right to dispose a piece of property only if she has right to own it in the first place, although the right of disposal is not full in the area of share ownership because multiple owners own the firm. Without owning productive capital, workers do not have right to residual earning of the companies they work for, uses of firm as the sum of productive capital, and the purpose for such uses. The lack of ownership attenuates the strength of participation. The current form of codetermination conform to the point above because it is somewhat attenuated even in the area of participation. For instance, in cases of deadlock, shareholder representative can cast the tie-breaking vote.³⁹¹ The high supervisory board where workers' representatives sit only engages in the broadest decision-making and do not often decide matters with more importance to workers. Instead, such matters

³⁸⁸ Ibid.

³⁸⁹ Germany (1,231) > Freedom of association, collective bargaining and industrial relations (32)
http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=13898&p_country=DEU&p_count=1231&p_classification=02&p_classcount=32

³⁹⁰ Hansmann, 111.

³⁹¹ Ibid. 111-112.

are left to collective bargaining at the macro level between unions and employer's associations or at the micro level between work councils and management.³⁹²

Codetermination has been acclaimed as the practice that empowers workers in many successful and innovative German and Nordic firms, although a more nuanced look reveals some attenuated participation and the absence of equity ownership for workers. Nevertheless, the widespread practices of codetermination in Germany and Nordic countries demonstrate that political institutions can provide the background conditions such as legal mandates for workplace representative democracy, albeit in a limited forms, and workers' participation does not impose a significant cost on these companies and economies. Moreover, given the success of codetermination and ESOPs and the requirement of the public principles, "neopartnership," a feasible form of participation and ownership can be conceived. Neopartnership combines codetermination and ESOPs and therefore participation and ownership, which are both feasible according to the records of both practices. Other legal mandates can promote equal vote and equal liberty in firms by limiting the stock and voting power of any shareholder. For instance, Thomas Piketty proposes that no shareholder can hold more than 10 percent of the stocks of their firms.³⁹³ Functionally, neo-partnership is very feasible. Nevertheless, the strategies to bring it about requires more inquiry/

It is important to point out that feasibility of workplace democracy above does not fully coincide with the feasibility of employee-owned firms. The feasibility of workplace democracy is possible, given the feasibility a "neo-partnership" model, which combines codetermination, ESOPs, and the implementation of other legal mandates that limit concentrated voting power and ownership. On the other hand, the feasibility of employee-owned firms is an open question,

³⁹² Ibid.

³⁹³ Piketty, 974.

given the only case of Mondragon as an employee-owned firm at a large scale. Theoretically, society can change socioeconomic conditions by creating better insurance and credit policies and programs for worker cooperative, but whether worker cooperatives can be prevalent is still uncertain because we lack any empirical evidence.³⁹⁴ Nevertheless, as explained, in the private spheres, the public ideology of human emancipation requires equal political liberty within firms, fair equality of opportunity, and greater equality of resources within firms, which do not require the prevalence of fully employee-owned cooperatives. Suppose in a company everyone is shareholder or partner, if no one a company has the power to dominate others in voting powers and shares, and workers' representatives can sit on at least half of the seats of the management board, then the firm is essentially a workplace democracy. Moreover, leaving the doubt of efficiency and feasibility aside, pushing for the universalization of employee-owned enterprises violates economic liberty, such as the economic liberty for investors, which is included in the public principles and should be constitutionalized. To conclude, can workplace democracy be done? Sure, as shown in the mandates of codetermination in Germany and Nordic countries, and especially the case of Mondragon. How to do it in reality? Neopartnership is the answer. Compared with full worker cooperative, it is attenuated, but such attenuation does not compromise what public ideology of human emancipation requires in workplace and also respects economic liberty. Workplace democracy does not require fully employee-owned firms. What it requires is greater liberty, fair equality of opportunity, and general economic equality within firms, which the neo-partnership can accomplish.

³⁹⁴ For the theoretical analysis on the enabling conditions of worker cooperatives, see Samuel Bowles and Herbert Gintis, "Recasting egalitarianism" in *Recasting egalitarianism: new rules for equity and accountability through markets, communities and governments*, edited by Erik Olin Wright, London: Verso Press. 1997.

IV. A Brief Note on Corporate Social Responsibility

As explained in section II of this chapter, workplace democracy even in its perfect form still falls a little short of the public principles of human emancipation, although they fulfill the requirement of public ideology in the workplace. The gap between workplace democracy and human emancipation justifies the need of public approaches to close the gap. Before delving into these public approaches, it should be pointed out that there are a lot corporations can do to diminish if not close the gap by themselves, if they exercise the more robust egalitarian social ethos or the standpoint of species beings not only within firms but also among firms and in areas not typically viewed as the domain of corporate activities. Here I temporarily the egalitarian ethos outside firms is called corporate social responsibility (CSR).

To realize human emancipation, the social relations and interactions between corporations and their external world is worth discussing. Smith believes that a society needs to enforce justice only, and Rawls argues that justice as fairness only applies to the basic structure. But if most corporations lack Smithian beneficence or the social ethos necessary for Rawls's difference principle to help the least advantaged, Smith and Rawls would sigh but warn against enforcing such beneficence. But if most people have only the minimal Smithian beneficence or Rawlsian sense of justice outside firms, then the result would be injustice, and there could be severe inequality of liberty, opportunity, and economic resources among firms and outside corporate activities. To step closer to human emancipation, I would argue that firms should expand the egalitarian social ethos outside corporate universe and work toward the social justice via CSR to take proper regard to their community, workplace, market place, and environment. In this way, firms not only advance their own ends, but also produce with a consideration of other

fellow human beings and their communities. In this sense, people's production objectifies their essential essence as species-beings in Marx's terms.

It is worried that helping the least advantaged via CSR risks a firm's profitability and even survival. This is not justifiable not only to investor owners but also employee owners under neopartnership. Perhaps the underlying worry is that because firms need to spend money and resources for an altruistic purpose to do CSR, this altruistic spending may irreconcilably conflict with the profitability of a firm. These worries raise very important issues of a firm's ability, resources, and its relation to CSR. Given these worries, I would give an argument as the following, which can be understood as Kant's notion of "ought implies can": (1) Any firm that can tackle these problems with its resources and knowledge should do so without incurring unbearable costs. (2) Some firms can tackle these problems without incurring unbearable costs. (3) Therefore, these firms that can tackle social problems should do so.³⁹⁵ This argument recognizes that if firms cannot take social responsibility because of constraints of resources or profitability, they have no responsibility to do so. Nevertheless, if they can do something, they should do it. Moreover, as argued in Chapter III, "ought implies can" tells people what they ought to do given empirical constraint, but it says nothing about whether "cannot" can justify a rejection of "ought" in terms of ultimate principles, and it says nothing about whether we should break these empirical constraints to better step closer to those ultimate principles. In the area of CSR, there are firms that do advise firms to maintain and expand firms' capability of being profitable and socially responsible simultaneously, so even if a firm lacks such capability, it can and should develop its CSR capability. This version of "ought implies can" does not mean that

³⁹⁵ Jeffrey Moriarty. "Business Ethics", *The Stanford Encyclopedia of Philosophy* (Fall 2017 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/fall2017/entries/ethics-business/>>. Accessed May 6, 2018.

every activity should be linked to poverty alleviation or environmental protection. Otherwise, spending every marginal profit earned from every type of service of the firm for CSR may make the firm cease to function, just as an investment-banking firm cannot make all its services toward the least well off because of the nature of the industry. Rather, it means that a firm within its capability should have some, if not all services, that are CSR-related while it is pursuing its own self-interested, profitable activities, a firm should expand its CSR-related capability. For example, an internet firm can use its mastery of data about villages to preserve the villages' language, connect them with financial institutions to structure proper loans to help entrepreneurship, and expose their agriculture products to a greater market.³⁹⁶ In this way, the internet firm earns profit and works toward the difference principle by acting upon its beneficence toward or the ethos to help those villagers.

A challenge still remains: directing resources for altruistic purposes either undermines the shareholder's interest or spends money in a way without their consent. This challenge can still be voiced even if all firms adopt neopartnership. In the essay that "The Social Responsibility of Business is to Increase its Profits," Milton Friedman argues that if managers of a firm spend some of the firm's money for altruistic purposes such as helping the least well-off, managers would spend the shareholder's money and investment not for their interests, and shareholders have not contracted with managers to dispose money in this way. This is undemocratic spending by disregarding the interest of the shareholder.³⁹⁷

³⁹⁶ The CSR case of an internet firm (in Chinese). <http://msc-world.com/news/detail/id/141/status/1>.

³⁹⁷ Milton Friedman. "The Social Responsibility of Business is to Increase its Profits." *The New York Times Magazine*. September 13, 1980. <http://www.umich.edu/~thecore/doc/Friedman.pdf>. Accessed May 6, 2018.

Friedman's critique can be structured into a Nozican argument. If parties agree on the principle of property acquisition and transfer, then whatever ends up in accordance with justice in acquisition and transfer that necessarily upsets the original pattern that managers of the corporation consider just. Suppose that 1. shareholders acquire their money for investment justly and fulfills justice in acquisition; 2. shareholders invest their money into the firm run by managers, making contract of investment that protects the interest of shareholders and thus fulfills justice in transfer. Once managers spend money for an altruistic purpose, they are doing so not for the interest of shareholders and without the democratic procedure. Therefore, 3. the altruistic spending is equivalent to coercion on shareholders to spend their money in ways they have not agreed upon, thus violating justice in transfer. Because justice in transfer is undermined, justice in rectification should be triggered: managers should be rectified for their misdeeds and stop altruistic spending.

What seems implicit in this argument is that (1) CSR is just about donating money for altruistic purposes, and (2) shareholders are principals owning the firm, and managers are agents acting on behalf of principals but not owning the firm. I have one reply to each claim above. First, as discussed in the question whether firms should do CSR above, firms can engage in services compatible with its own profit and CSR at the same time, which does not necessarily involve altruistic spending. Many empirical research shows a very significant and large effect of CSR on corporate profitability.³⁹⁸ Second, even if CSR is very narrowly understood as altruistic spending or donation, I would argue that managers should still use their discretion to dispose

³⁹⁸ Michael E. Porter and Mark R. Kramer, "Strategy and Society: The Link Between Competitive Advantage and Corporate Social Responsibility," *Harvard Business Review*, The December 2006 Issue, <https://hbr.org/2006/12/strategy-and-society-the-link-between-competitive-advantage-and-corporate-social-responsibility>, accessed May 3, 2019.

shareholder's money as long as shareholders' investment is safeguarded or has a reasonable amount of return. The primary reason for doing so is that this principal-agent relation should be understood as a fiduciary relation, or shareholders do not fully own the firm but their investment or asset in firm only, and they trust managers to use their investment properly. Namely, the second step in Nozican justice above is more nuanced and allows greater room for managers' discretion, and the third step to rectify injustice does not follow in this case. If the argument is applied to non-workplace democracy, then of course (1) is not met either, as shown in extensive discussions in Chapter I and II.

Why don't shareholders own a firm or not fully own a firm? Here the ownership should be understood from the following philosophical perspective, and the scope of argument only applies to investor-owners. If someone owns something, then this person has a property right of this thing. If this person has a property right of this thing, then this person also has the right to dispose the property. Following this reasoning, if investor-owners own the firm, they also have the right to dispose and manage the firm's asset and services. However, shareholders do not have the right to dispose the firm's asset. Therefore, they do not own the firm.³⁹⁹ To put it conservatively, shareholders do not fully have the right to dispose the firm's asset. Therefore, they do not own the firm. This is the special philosophical perspective of ownership in this section, and it is different from the conception of ownership discussed previously.

What investor-owned shareholders do own and have a property right of is their investment in the firm. Therefore, their investment as property should be protected. Managers should use their investment and try to bring a reasonable amount of return to their investment. At

³⁹⁹ Alan Strudler. (2017), What to Do with Corporate Wealth. *Journal of Political Philosophy*, 25: 112-116. doi:[10.1111/jopp.12106](https://doi.org/10.1111/jopp.12106).

least they should preserve the initial present value of their investment. Following this account, managers can and should use their discretion to dispose shareholders' investment in any way that does not threaten the investment and asset. Therefore, CSR narrowly understood as altruistic spending can be allowed if it does not put shareholders' investment in danger.⁴⁰⁰

In fact, the relation between shareholders and managers should be understood as a fiduciary relation. An analogy helps to explain this point. Parents own the right to domesticate their children. Parents send their children to school because they trust that teachers of the school have expertise and knowledge to teach children the right things. Parents trust teachers to make reasonably good judgment and educate their children for children's sake rather than the interest in teachers' only. Obviously, parents have no right to dictate how the school is run, or what curriculum should be taught. Therefore, they do not own the school.⁴⁰¹ What they do own is their children as family members the rights to domesticate their children. In this regard, teachers are responsible for the safety and well-being of children.

The relation between investor-owners and managers is a strikingly similar fiduciary relation. Shareholders as investor-owners own their money for investment. They invest their money to a certain firm because they trust that managers of this firm have expertise and experience to manage their investment to give them a reasonable amount of return. Investor-owners trust managers to make reasonably good judgment to take care of their investment for their interests rather than the interest in managers only. Following the same argument as the analogy above, investor-owners have no right to dictate ways to use the money and services to

⁴⁰⁰ 121.

⁴⁰¹ One may point out that the distinction between schools and corporations is that schools are owned by no one and is de facto nonprofit, but corporations are always owned by someone. This distinction is correct, but it does not affect the flow of the argument.

open to customers. Therefore, they do not own the company. What they do own is their property rights of their investment. In this regard, managers are responsible for bringing a reasonable amount of return to their investment or at least secure their investment. This argument definitely allows CSR practices narrowly understood as altruistic spending, as long as altruistic spending does not put shareholders' investment in jeopardy.⁴⁰²

The argument for CSR above certainly applies to the current world of capitalism, but in the new world teeming with neopartnership, the argument does not address the tension between employee-owners and the requirement of CSR, although the tension is only in the area of CSR as altruistic donation, not CSR as profitable productive activities. Employee-owners have some partial right over their residual earnings and the control within firms; therefore, employee-owners indeed own the firm, at least partially, even in the above philosophical sense. In this regard, the scope of the argument for CSR cannot be extended to employee-owners. Perhaps this tension also provides another reason for the limit of robust egalitarian ethos without public approaches to step toward human emancipation. Moreover, the introduction and reinforcement of some public approaches can perhaps reinforce the egalitarian ethos and the standpoint of species-beings even in private spheres. The next chapter will explore these public approaches to realize human emancipation.

⁴⁰² Ibid.

Chapter VI – Transcending Capitalism II: Between Property-Owning Democracy and Liberal Socialism

"The obstacles to economic democracy are considerable. But just as no one would defend slavery or serfdom, I believe a day will come, when no one will be able to defend a form of society, in which a minority profit from the dispossession of majority. "

- G. A. Cohen, Against Capitalism

Workplace democracy is a great leap forward toward the quest of justice and equality both within and outside the basic structure, but it has its limit when facing inequality among firms and outside workplaces, and when firms as private entities pursue their private interests in ways at variance with the requirement of the public principles. To realize or at least best approximate human emancipation, other institutional measures are necessary.

This chapter examines the next and the final socioeconomic structure of the Social Economy: property-owning democracy or liberal (democratic) socialism. Surprisingly, the two terms share many common elements, and one can argue that they are synonymous to some extent. After explaining why there is a significant convergence between the two concepts, this chapter will explain how to organize this socioeconomic structure, whose components include the universal capital endowment, basic income, and a social wealth fund. The controversy regarding some versions of market socialism will also be commented.

I. The Significant Convergence Between the Two Concepts

As shown in Chapter IV, Rawls argues that property-owning democracy (POD) and liberal (democratic) socialism stand at the two broad socioeconomic systems that realize justice as fairness. Nevertheless, the dichotomy between the two systems is not exactly clear because of many standards, definitions, and elements of the two systems. Their elements also have significant overlap. For example, workplace democracy features a much more dispersed ownership of the means of production (at least within firms), so it can be said to be an element of

POD.⁴⁰³ On the other hand, it can be argued that workplace democracy, especially worker cooperatives, has been an entrenched tradition in socialist thought.⁴⁰⁴ In this regard, workplace democracy can also be the component of liberal socialism. Thomas Piketty regards workplace democracy with 50-50 voting rights between worker representatives and shareholders a key element of in his proposed “participatory socialism.”⁴⁰⁵ Socialism as Rawls defines it has a collective ownership of the means of production, but POD can feature some versions of collective ownership. James Meade, the economist who was the first to coin the term “property-owning democracy,” says that POD should have a community fund that owns half of a nation’s productive asset and distribute capital gains and dividends to all citizens as social dividend.⁴⁰⁶

It seems that there is no clear dichotomy between POD and democratic socialism, so the important point is arguably not to draw a clear line. Rather, it is about formulating the elements of an emancipatory economy. For the rest of this paper, I use property-owning democracy and liberal (democratic) socialism interchangeably because of the significant overlap between these two terms. Like what has been explained in previous chapters, the exact forms of property-owning democracy is not meant to be definitive. I should honestly admit that I am not knowledgeable enough to be an encyclopedist in all aspects of these components, and even if someone is, the only way to give a conclusive answer is through collective deliberation and

⁴⁰³ Hsieh, 150-152.

⁴⁰⁴ For instance, Wright points out that Marx viewed workers’ cooperative as a legitimate socialist strategy, although he did not believe that cooperatives alone can fundamentally change social relations in capitalist society; Wright, 236; see also Karl Marx, “The Inaugural Address to the International Working Men’s Associations,” *Marxists Internet Archive*, written during October 21-27, 1864, <https://www.marxists.org/archive/marx/works/1864/10/27.htm>, accessed May 10, 2020.

⁴⁰⁵ Piketty, 969.

⁴⁰⁶ Ben Jackson, “Property-Owning Democracy: A Short History,” in *Property-Owning Democracy: Rawls and Beyond*, 45-46; see also James Meade, *Efficiency, Equality and the Ownership of Property*, Originally published by George Allen & Unwin, 1964, 21-81 <https://benjaminmoll.com/wp-content/uploads/2019/07/meade.pdf>, accessed May 10, 2020; Rawls cites Meade’s article in the discussion of the social system of justice.

experimentation. In this sense, this chapter merely provides some perspectives on how liberal-socialism can compensate for the inadequacy of welfare state and workplace democracy. By formulating the components of property-owning democracy, I also simultaneously answer the “how to do it” question for each component by explaining how to organize these components.

II. The Neo-Agrarian Reform: Universal Capital Endowment and Basic Income

In early days of American founding, Thomas Paine in his *Agrarian Justice* argues that the accumulation of private property is possible only if society creates the background conditions. As private property was the fruit of society rather than purely individual endeavors, risk-taking, entrepreneurial drive, every property owner should fairly return parts of their capital to the community, and those returns should be used to provide a universal capital endowment for every person for those over 21 and an annual pension for those over 50.⁴⁰⁷

Paine wrote in the U.S. with relative economic equality before the advent of capitalist modes of production at a large scale, where farmers can independently own pieces of land, cultivate on them, and reap their fruit of labor, rather than work dependently for landlords and pay rent for landlords’ accumulation of wealth.⁴⁰⁸ His point still sheds light in capitalist modes of production, which create severe wealth inequality at a level on par with societies dominated by landlords and slavery. Today, where, when, compared with landlord-society, the top decile of population in terms of income owns about 80 to 90 percent of wealth, and the top centile owns about 60 to 70 percent.⁴⁰⁹ The concentration of wealth at this level makes the rest of population subject to their arbitrary will and excessive political influence within and outside workplace, and it makes the rest of population exceedingly difficult to pursue life choices that are meaningful for

⁴⁰⁷ Thomas Paine, *Agrarian Justice*, grundskyld.dk, 1999, compiled by Thomas Piketty, <http://piketty.pse.ens.fr/files/Paine1795.pdf>, accessed May 10, 2020.

⁴⁰⁸ Sitaraman, 61-67.

⁴⁰⁹ Thomas Piketty and Emmanuel Saez, “Inequality in the long run,” *Science*, May 23, 2014: Vol. 344, Issue 6186, pp. 838, DOI: 10.1126/science.1251936, accessed May 10, 2020.

them. Moreover, the concentration of wealth and ever-improving conditions for the top also block opportunities of public expenditures and fuel the desire for the worse-off to revolt and destabilize the system.⁴¹⁰ Under this circumstance, it is necessary to launch a neo-agrarian reform by instituting a universal capital endowment (UCE) and basic income (BI) to every citizen, thus providing the institutional conditions to pursue their life plans against life contingencies.

The basic features of UCE and BI should be explained. UCE, also named stakeholder grant by Bruce Ackerman and Anne Alstott, is a one-time grant to all citizens who reach a certain age (21 in Ackerman and Alstott's proposal), received at least high school education, and showed no criminal records.⁴¹¹ Those above a certain age (say 60, 70, or even 80, given that life expectancy is expected to rise to 100 in a couple of decades) are not eligible to receive the grant because they would receive their pension instead, and they should exercise their duty to contribute to the community to help the next generation.⁴¹² Nevertheless, the inclusion of almost all citizens except a few who do not meet the requirement still makes the capital endowment universal. After receiving the grant from society, stakeholders should also fulfill their corresponding civic duties as well. For stakeholders who have done relatively well, they should pay back an amount equal to the initial value of their UCE or stakeholder grant with interests upon their death.⁴¹³ The discussion of universal basic income (UBI) has been discussed in a number of countries, but in this proposal, basic income rather than universal basic income is distributed to citizens who meet the age or income requirement, meaning that if they are above a

⁴¹⁰ Sitaraman, 223-273.

⁴¹¹ Bruce Ackerman and Anne Alstott, "Why Stakeholding?" in *Redesigning Distribution*, edited by Erik Olin Wright, New York, NY and London: Verso, 2006, 45-46.

⁴¹² Ibid., 44-45. Ackerman and Alstott state that stakeholder fund should be unconditional, while I think that some conditions such as age limit should be imposed. Despite the reason, the stakeholder fund would still be universal, as every citizen will receive it after he or she reaches a certain age.

⁴¹³ Ibid, 45

certain age (say 21), or their income is below a certain level according to specific conditions in a given country.⁴¹⁴ In this proposal, basic income contributes to eliminate morally arbitrary inequality by taming the forces of unanticipated or unmanageable social contingencies for vulnerable people in society, especially for those in dire needs such as the homeless and unemployed. In this aspect, it seems hard to justify basic income who are not vulnerable, such as those with concentrated wealth ownership.

Both UCE and BI have civic elements in accordance with the egalitarian social ethos required by the rights of citizen and human emancipation. On the one hand, people who are better off can see that their situations are possible by the conditions created by public endeavors, so they contribute parts of their holdings to those who are worse off, thus promoting general economic equality. For recipients of UCE and BI, they should also pay back to society to demonstrate the mutual reciprocity. For instance, for those who are doing well, they are required to pay back the initial value of their stakeholder grants upon death and stop receiving BI. In this way, mutual recognition of interests in Smith's sense is extended to the whole society, and expanded beneficence is made possible through institutional measures. Moreover, by perpetuating a universal circulation rather than concentration of capital in a few's hands, people (at least implicitly) recognize that they produce and work not only for themselves but also for their fellow citizens. Thus, these are two ways the consideration of public interests in their pursuit of private interests. Compared with workplace democracy, UCE, BI, and other approaches that will be soon explored step further beyond in the sense that every citizen's equal dignity is publicly recognized, not only those in the workplace. Similar arguments can be given for other institutional measures proposed later in this chapter.

⁴¹⁴ Piketty, *Capital and Ideology*, 1002.

As ways to tackle morally arbitrary inequality, UCE and BI have different focuses. While BI is designed to help those with needs to tackle unanticipated and unmanageable social contingency, such as the lack of credit to get a bank account, UCE plays a greater role to realize equality of resources and provide the material basis for citizens to shape life plans, such as pursuing further education or careers and starting a business.⁴¹⁵ Although they by themselves are not enough to equalize social power because they do not give citizens other than workers shares and control over their economy, they can compensate for the inadequacy of workplace democracy by tackling inequality outside the workplace. Moreover, as we shall see very soon in the following mathematical analysis, UCE especially can provide the largest one-time endowment and constitutes a powerful material basis to enable people to pursue meaningful life choices. The past agrarian reforms empowered farmers to produce independently by giving a piece of land, so does the neo-agrarian reform empower ordinary citizens to independently set and pursue their ends by giving a good amount of capital endowment.

UCE and BI should be compared more carefully to examine their purposes. BI can help people to shape their life plans, but their effect is attenuated, prolonged, and less significant compared with stakeholder grant. Personal ventures such as starting a small business, getting trained to pursue affirming careers, and pursuing further education require a large amount of resources for young people without too much accumulation of wealth. In this sense, a stakeholder grant can offer a quick and effective way to pursue their initiatives. In contrast, with additional basic income, people would have to wait for several more years.⁴¹⁶ Moreover, Ackerman and Alstott argue that basic income may encourage consumerist tendency. By

⁴¹⁵ Philippe Van Parijs, "Basic Income: A simple and powerful idea for the twenty-first century" in *Redesigning Distribution*, 14-16; Ackerman and Alstott, 47-49.

⁴¹⁶ Ibid.

receiving some extra income, people may have greater propensity to consume on things they normally desire but unessential to their life plans. With stakeholder grants, people would think carefully in terms of their current and future abilities, goals in life, and how they will unfold in the future.⁴¹⁷ This comparison reveals the necessity of both UCE and BI rather than only BI, as one without the other may not work toward general economic equality for reasons just mentioned.

Perhaps one objection that can be anticipated is that there is no guarantee that recipients will spend UCE and BI wisely. Indeed, statistically there are always people like those, but the actual number is low enough. The practices of microfinance in Bangladesh have shattered the myth that poor people are poor because they are lazy or spend money unwisely. People are poor largely because of random chances they are not responsible, and the background condition that makes others better off does not work toward them.⁴¹⁸ When the background condition is made to work toward them, an average and typical poor or unfortunate person has every reason and tendency to spend their income and allocate their wealth wisely. The requirement of high school education and no criminal records also reinforces people's careful decisions regarding their new income and wealth. Furthermore, the introduction of UCE and BI may also spur people's responsible spending even for those outliers because these programs can spur civic discussions that incentivize people to carefully think about ways to spend their money.⁴¹⁹

The sources of UCE and BI should be briefly explained. To put it simply, they come from the what Thomas Piketty calls "the progressive tax triptych: property, inheritance, income."⁴²⁰ In terms of progressive income tax, it has been long practiced and proved to be one major way to

⁴¹⁷ Ibid., 48.

⁴¹⁸ Karol Boudreaux and Tyler Cowen, "The Micromagic of Microcredit," *Wilson Quarterly*, Winter 2008, <http://archive.wilsonquarterly.com/essays/micromagic-microcredit,accessed>, accessed May 10, 2020

⁴¹⁹ Ackerman and Alstott, 50.

⁴²⁰ Piketty, 981.

reduce severe economic inequality in a number of western countries. In Scandinavian countries with the highest level of equality, the marginal tax rates for earners with the highest income could reach 50 percent to 70 percent.⁴²¹ Nevertheless, the progressive tax rate is not consistently applied to all sources of income. For example, in the U.S., the capital gain tax ranges from 0 to 20 percent depending on specific tax brackets, compared with its income tax rate from 10 to 37 percent.⁴²² This problem even applies to Scandinavian countries. For example, in Sweden, the capital gains tax is a flat rate 35 percent, which is relatively high among OECD countries but much lower than its top tax rate of 70 percent on labor income.⁴²³ Although this rate is normally regarded very high among capital gains taxes in many countries, it still stands as a sharp contrast to Sweden's highest income tax rate.

In this regard, the proper measure is to apply consistent progressive income tax on every kind of income, ranging from wage and pension to non-wage income such as dividend, interests, profit, rents, etc. This measure is paramount to work toward general economic equality because the real return on capital nowadays is the biggest source of inequality. Piketty's research can confirm this point. In terms of labor income inequality, the rise of the top 1% or even the top 0.1% gives rise to the rise in the top 10%. Although there are many causes, Piketty points out that top executive compensations largely result in this inequality partly because they have power to determine labor income for themselves.⁴²⁴ In terms of income inequality from capital, Piketty synthesizes the empirical law of $r > g$ or "the fundamental law of divergence," meaning that the average annual real return on wealth is higher than the average annual economic growth.⁴²⁵

⁴²¹ Matt Bruenig, "Sweden Has a 70% Tax Rate and It's Just Fine," *Jacobin*, January 7, 2019, <https://jacobinmag.com/2019/01/ocasio-cortez-taxes-rich-sweden>, accessed May 10, 2020.

⁴²² Amelia Josephson, "2019-2020 Federal Income Tax Brackets," *Smart Asset*, March 24, 2020, <https://smartasset.com/taxes/current-federal-income-tax-brackets>, accessed May 10, 2020.

⁴²³ Bruenig.

⁴²⁴ *Ibid.*, 842.

⁴²⁵ Thomas Piketty, *Capital in the Twenty-First Century*, Cambridge, MA and London England, 25-27.

Based on data from tax returns in multiple countries, Piketty discovers that the pure rate of return on capital mostly exceeds the global economic growth in human history. In the post-war history in particular, Piketty discovers that the top 10% income share in the U.S. has skyrocketed from between 30% and 35% in the 1950s to the level close to 50% of total pretax income in the early 2010's.⁴²⁶ Europe has also displayed a similar trend, which increased from about 30% in the 1980s to 35% in the early 2010's.⁴²⁷ Behind these inequality are the dynamics described by Piketty.

The most important measure is to tame this dynamics. If the proportion to be taken by taxes is set between g and r and closer to r than it is closer to g , then concentration of capital ownership can be limited to provide funding for the universal circulation of capital in society. In this regard, the effective rate on non-wage income should be progressive and set at the same rate as that of wage income. Doing so requires a very accurate registration of wealth. Given the problem of tax havens and billionaires' ability to take advantage of whatever law they like, significant international coordination is necessary to make universal capital circulation effective. For example, countries can sign multilateral international treaties that "require the recording assets in public register," require firms to "submit the names of shareholders and the number of shares owned by each," and require banks and other financial institutions to submit information on financial assets."⁴²⁸ Even without international coordination, governments can still use other means to effectively enforce consistent tax rates for its citizens. Once a billionaire is found to evade domestic tax laws, the government of that country can threaten to revoke his or her citizenship.⁴²⁹ Domestic laws also apply to citizens overseas as well, and the practice of revoking

⁴²⁶ Ibid., 24.

⁴²⁷ Ibid., 26.

⁴²⁸ Piketty, *Capital and Ideology*, 991-995.

⁴²⁹ Ibid., 991.

citizenship has also been consistent in violations of domestic laws in many areas for citizens overseas. In addition, Piketty points out that whether international coordination and other applications of domestic laws to domestic wealthy citizens is purely an ideological question, and there is no technical difficulty of doing so.⁴³⁰

In terms of wealth and social inheritance tax, the tax can be levied as a one-time inheritance tax or annual tax. For inheritance tax, the analogy of agrarian reforms still applies. Governments that took lands in those reforms were essentially levying a one-time tax, and the amount should be progressive depending on the size of the wealth and its relations with everyone else's.⁴³¹ For instance, in Liu's story, the Ultimate Capitalist who owns 99 percent of resources in the world should pay a tax of his property very close to 99 percent. Furthermore, the government and public should not wait until the death of capitalists to levy taxes, so an annual wealth tax should also be levied on properties such as "houses, apartments, warehouses, factories, and also intangible and financial assets."⁴³² An annual wealth tax can also adopt more quickly to the changes in wealth, the ability of taxpayers to pay, and the needs of society. It should be emphasized that progressive taxes on properties are still justified even if properties do not generate any income. This has been the case since the eighteenth countries and accepted in many countries.⁴³³

⁴³⁰ Ibid., 992.

⁴³¹ Ibid., 980.

⁴³² Ibid., 977.

⁴³³ Ibid.

The progressivity should depend on the relations between the amount of wealth and income a taxpayer owns and that owned by others. In this regard, Thomas Piketty proposes the following rate of progressive property tax and progressive income tax based on the multiple of average wealth and income in society. This chart is helpful to illustrate how much progressivity should be aimed for, even though the exact tax rate should be subject to collective deliberation.

Table 17.1. The circulation of property and progressive taxation

Progressive tax on property (funding of the capital endowment allocated to each young adult)			Progressive tax on income (funding of basic income and social and ecological State)	
Multiple of average wealth	Annual tax on property (effective tax rate)	Tax on inheritances (effective tax rate)	Multiple of average income	Effective tax rate (including social contributions and carbon tax)
0,5	0,1%	5%	0,5	10%
2	1%	20%	2	40%
5	2%	50%	5	50%
10	5%	60%	10	60%
100	10%	70%	100	70%
1000	60%	80%	1000	80%
10000	90%	90%	10000	90%

Interpretation. The proposed tax system includes a progressive tax on property (annual tax and inheritance tax) funding a capital endowment for all young adults and a progressive tax on income (including social contributions and progressive tax on carbon emissions) funding the basic income and the social and ecological State (health, education, pensions, unemployment, energy, etc.). This system favouring the circulation of property is one of the constituting elements of participatory socialism, together with a 50-50 split of voting rights among workers representatives and shareholders in corporations. **Note:** in the exemple given here, the progressive property tax raises about 5% of national income (allowing to fund a capital endowment of about 60% of average net wealth, to be allocated to each young adult at 25-year of age) and the progressive income tax about 45% of national income (allowing to fund an annual basic income of about 60% of after-tax income, costing about 5% of national income, and the social and ecological State for about 40% of national income). **Sources:** see piketty.pse.ens.fr/ideology.

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The progressive property tax and income tax can be used to UCE and BI respectively. The operation of the diffusion of capital is perhaps simpler than expected, just like cutting and redistributing a cake in a group with someone who initially gets between 60 and 70 percent of the cake. To illustrate, consider the following example. Suppose that in a hypothetical society, the units of wealth can be categorized into 100 units, and there are 100 people in this society, so the average wealth in this society is 1 unit per person. Keep in mind that the average wealth per person may mask drastic inequality in this hypothetical society, where 1 person may own 60 units of wealth, or 10 people own 90 units of wealth, or some people may not own any wealth at

⁴³⁴ Piketty 982, see also <http://piketty.pse.ens.fr/files/ideology/pdf/T17.1.pdf>.

all. Suppose that the society decides to give everyone who just reaches 25 years old a stakeholder grant that equals 60 percent of average wealth. Assume that the life expectancy is 80 years, and population is uniformly distributed, then the annual wealth per capita to be redistributed to these newly 25 year-olds would be $(100/80) * 0.6 = 0.75$ units of wealth.⁴³⁵ Suppose that the tax revenue from wealth and inheritance tax in this society is 5 percent of total tax revenue, which is often roughly the case in many countries, the total wealth equals five to six times the national income, based on Piketty's research on inequality, then the annual national income would be from 16.6 $(100/6)$ to 20 $(100/5)$ units.⁴³⁶ Therefore, the cost would be only from $0.75/20 = 3.75\%$ to $0.75/16.6 = 4.5\%$ of national income. Notice that UCE is not paid through tax on national income but annual wealth tax and inheritance tax, whose significantly larger amount indicates that the average wealth tax rate would be even lower $(0.75/100 = 0.75 \text{ percent})$. Of course, that person who owns 60 units of wealth would pay at a larger higher rate. Countries like Norway and Germany have been levying an annual wealth tax at from 0 to 3 percent, which depend on specific brackets.⁴³⁷

This illustrative example shows that the math is much simpler, and the cost of redistribution is likely to be much smaller than one may intuitively think. This simple math above shows that arguments about excessive cost are totally based on intuition and thus entirely overstated. Moreover, the surprisingly small percentage of national income to fund the universal capital endowment or stakeholder grant is not a huge requirement on citizens' egalitarian ethos.

⁴³⁵ Ibid., 983. Piketty's estimated percentage based on his statistics is 1.5 percent, which is not wildly different from the estimate based on some roughly realistic assumptions above.

⁴³⁶ Ibid.

⁴³⁷ Joseph Zebalro-Roig, "4 European countries still have a wealth tax. Here's how much success they've each had," *Business Insider*, November 7, 2019, <https://www.businessinsider.com/4-european-countries-wealth-tax-spain-norway-switzerland-belgium-2019-11>, accessed May 10, 2020.

It may be easy to see that a similar arithmetic case can also be given to illustrate the operation of BI, but for multiple structures to be addressed in this chapter, let's proceed and leave the simple arithmetic outside reading.

III. Evaluations of Market Socialism

The neoagrarian reform, consisted of UCE and BI, can drastically reduce economic equality, reduce capital concentration, and enable ordinary citizens to embrace with new opportunities set and pursue their ends. It might be argued that combining workplace democracy and universal capital circulation is enough for human emancipation. However, as discussed in the last chapter, even if private government internally realizes its public character to all "citizens" in the private government, the pursuit of private interests for this private government may stand at variance with the requirement of public ideology. Moreover, while UCE and BI greatly can significantly equalize resources, they are not enough to equalize social power, especially for citizens other than workers, who should also have as equal control and shares over their economy to secure equal liberty and fair equality of opportunity both within and outside the basic structure. Although inter-firm inequality and inequality outside workplace may be vastly reduced, citizens may still be subject to the arbitrary will of workplace democracies with special interests such as military industrial complexes and fossil-fuel companies, whose greater social power does not respect equal liberty and fair equality of opportunity, even though material resources might be generally equal.

It may be argued that the above problem is also a problem of public bads, which can be managed through some traditional economic methods such as externality taxes or Coasian bargaining.⁴³⁸ Nevertheless, the two approaches are not fully adequate for both functional and

⁴³⁸ See R. H. Coase, "The Problem of Social Cost," *The Journal of Law & Economics* 3 (1960): 1-44, www.jstor.org/stable/724810, accessed March 2, 2020.

normative reasoning. Through Coasian bargaining, after property rights are clearly defined, the party who value their activities more can buy some of the rights from the other party, and the cost for these parties to eliminate externality is lower than the cost for one party to reduce externality, for example, by paying taxes, since private transactions are more efficient than central solution applied to all.⁴³⁹ Nevertheless, Coasian bargaining has unrealistic assumptions of zero transaction cost, full information for parties involved, and a clear authority that delimits property rights.⁴⁴⁰ Externality taxes or Pigouvian taxes are more realistic ways to reduce negative externality, but in some sense citizens' are also dependent on the decisions of government, so just relying on Pigouvian taxes alone is essentially a type of Statism. Even if externality taxes are set based on some objective amount of public bads such as carbon emitted, different parties affected may value the impact of negative externality differently. For example, a factory in the interior of a territory may continue to pollute a great deal because it does not care about the amount of carbon taxes, while citizens in coastal areas continue to suffer. Therefore, externality taxes can only be approximately efficient. In this regard, public participation and ownership by citizens may provide another way to work toward equal liberty and fair equality of opportunity. Moreover, public participation and ownership can arguably provide a platform of Coasian bargaining between different stakeholders. Social dividend from ownership can function as another way also work toward general economic equality, thus completing or best approximating social empowerment over the economy in the realm of socioeconomic structures.

Public ownership might be understood as socialism in the conception of a social economy. This conclusion is too quick because the above argument does not delineate between (1) full public ownership, (2) partial public ownership, and (3) no public ownership but an active

⁴³⁹ Ibid.

⁴⁴⁰ David Friedman, 2000. *Law's Order*, Princeton: N.Y.: Princeton University Press, 36-46.

role by the government. Socialism understood as the public ownership of all means of production only applies to the full public ownership. For liberal socialism, there is a range of possibilities among these options. This section thus mainly explores different conceptions of market socialism, including John Roemer's coupon socialism, James Yunker's BPO socialism, and Leland Stauber's Municipal Ownership Market Socialism, which correspond to either the first or the third cases. The next section examines social wealth funds, which correspond to the second case and also fit James Meade's and arguably John Rawls's conception of property-owning democracy, which features a socially owned community fund.

It should be clarified outright that first, the name of market socialism as an encompassing name for the following conceptions because the original formulators of these conceptions chose the same name. Nevertheless, one should not be misguided by the name of the concept without focusing on elements in these concepts. For instance, John Roemer's coupon socialism features no public ownership but an active role by the government to manage the system, and it is argued that coupon socialism is property-owning democracy in disguise.⁴⁴¹ It is also be argued that just coupon socialism is socialism in the sense it abolishes classes because everyone essentially becomes capital owner, although not necessarily in the firm they work for, in contrast to workplace democracy.⁴⁴² The point is that the names of and distinctions between capitalism and socialism become inconsequential. What matters is to get rid of ideological recalcitrance for both sides and to examine and evaluate elements within those proposals. Second, all of these socialism may face either technical difficulty in terms of functional feasibility, technical complexity, or normative difficulty in terms of (potential) incompatibility some requirements of

⁴⁴¹ David Schweikart, "Property-Ownning Democracy or Economic Democracy?" in *Property-Ownning Democracy: Rawls and Beyond*, 205-206.

⁴⁴² Wright, 251.

the public ideology, especially economic liberty as a key primary good. Nevertheless, one shall not discard these ideas outright because navigating the thoughts behind these proposals can provide meaningful lessons to institute a social wealth fund, a key component into Social Economy, in order to complete all socioeconomic structures of human emancipation.

1. Coupon Socialism

Coupon socialism features two currencies used in different spheres. Currencies such as dollars and euros are used in every day market exchanges only, and coupons as the other currency are used for stock transactions and investment.⁴⁴³ In other words, corporate shares are denominated in coupons rather than dollars. The role of the state is not to exercise ownership of these share but rather to issue a fixed number of coupons for every citizen.⁴⁴⁴ Everyone by the virtue of becoming an adult can get a fixed number of coupons that can be traded and invested in capital markets through either personal and direct investment or delegation to some intermediaries such as coupon mutual funds.⁴⁴⁵ In this sense, Roemer's coupon socialism can be argued to be a universal capital endowment in the forms of capital asset rather than money.

In terms of uses of coupons, they cannot be liquidated for cash, transferred to other individuals or entities, and inherited.⁴⁴⁶ After people die, they should return their coupons to society and redistribute to the new generation.⁴⁴⁷ There is only one exception: when companies need capital injection and thus issue new shares, coupons they get from issuing these shares can be exchanged for currencies, which can be used for capital investment.⁴⁴⁸ The central bank sets the exchange rate between coupons and currencies.⁴⁴⁹ There would be different exchange rates in

⁴⁴³ Roemer, *A Future for Socialism*, 49-50.

⁴⁴⁴ Ibid.

⁴⁴⁵ Ibid.

⁴⁴⁶ Wright, 248.

⁴⁴⁷ Roemer, 50.

⁴⁴⁸ Wright, 248.

⁴⁴⁹ Wright, 248.

different sectors, if people desire goods and services, then the exchange rate between coupons and dollars will be higher. Beside this exception, the property right of holding coupons is limited to receiving dividends of shares and voting on corporate affairs.

Some normative underpinnings behind the designs of coupon socialism should be discussed. The constraint of liquidation is imposed to check severe wealth and income inequality.⁴⁵⁰ If coupons and currencies are freely exchangeable, then the well-off can buy a preponderant of shares and sell for money, thus staying at better positions than others. This is a very valid worry, as the concentration of shares indeed accrued to wealthy citizens in post-soviet economies, which issued vouchers for citizens to own shares in formerly state-owned enterprises but imposed no constraint on liquidation.⁴⁵¹ Moreover, it can be argued that under coupon socialism, workplace democracy evolves into its 2.0 version as voters on corporate affairs include citizens outside the firm. Given the large number of citizens, citizens can select their representatives such as consumer, environmental agencies or associations, congresspeople, members of parliament, or other government personnel, who can sit among the board of directors to codetermine firms' policies, thus turning corporate practices more in line with public interests.⁴⁵²

The role of the state is limited in terms of ownership but active in terms of management of the system. It is in charge of issuing coupons, calculating the exchange rate between coupons and currencies, and forestalling the emergence of a black market between coupons and cash by using digital and technological means.⁴⁵³

⁴⁵⁰ John Roemer, "Equal Shares" in *Equal Shares*, edited by Erik Olin Wright, London and New York, NY: Verso, 1996, 20.

⁴⁵¹ Hilary Appel and Mitchell A. Orenstein, *From Triumph to Crisis: Neoliberal Economic Reform in Postcommunist Countries*, Cambridge, UK: Cambridge University Press, 50-53.

⁴⁵² Roemer, *A Future for Socialism*, 60-74.

⁴⁵³ Wright, 249.

Coupon socialism is a theoretically feasible because it basically modifies the stock market into a new market with the introduction of coupon as the new currency. It may have more potential to overcome or mitigate the problem of public bads and promote equality of resources. As representatives of citizens can participate in board meetings, people who sit on boards are more representative on average citizens compared with a workplace democracy, which those within a firm but not outside can vote on corporate decisions. In this way, public bads are more likely to be at the socially optimal level. Eliminating public bads is not possible and arguably not desirable because many productive activities are not possible after such a complete elimination. The better goal is to aim at the socially optimal level of public bads that people are willing to tolerate.⁴⁵⁴ With citizen votes on board, corporate decisions are more likely to reflect average preferences in society rather than to lean toward corporates' preference toward profit alone but producing a large amount public bads, thus pushing the amount of public bads closer toward the socially optimal level.⁴⁵⁵ As for ownership, as coupons enable all citizens to require own shares in several firms, the risk is much more diversified than just owning shares in companies that they work for. With reduced risk and the increased ownership made possible by coupons, the dividend can function as additional source of income, which helps to promote general economic equality. It is not deniable that inequality will arise under market socialism because of poor performance of some firms or poor management of assets by individuals or their intermediaries, but such inequality is arguably more muted compared with just welfare state and workplace democracy alone, especially with the complement of UCE and BI. Market socialism has very robust commitment toward equality in both resources and social power, and it also recognizes people's choices about their life plans over the use of resources in their own life.

⁴⁵⁴ Roemer, *A Future for Socialism*, 56-57.

⁴⁵⁵ Ibid.

Although the state has no role in terms of ownership, its central role in managing this structure leaves many open questions to be addressed. It can be argued that the principal-agent problems and the problems of managerial opportunism may arise for managers of coupon-mutual fund.⁴⁵⁶ Some technical details of coupon socialism also need to be addressed, such as the mechanism of converting venture capital start-ups into coupon-share public corporations, and interest rates as attached to loans that the banking systems lend to corporations.⁴⁵⁷ Perhaps more importantly, it may be doubtful whether the decentralized way of managing wealth is sufficient to impose social control over the economy. Given the diverse share ownership, it is hard to tell whether fund managers can be effectively disciplined, and if so whether these managers will utilize opportunities to invest in ways they see fit but not compatible with citizens' instructions.⁴⁵⁸ Moreover, the problem of "cash cows" should be addressed under this structure. For example, some old people may like to invest their coupon-shares in firms with huge profitability for high-dividend payout away from firms with strong growth potential.⁴⁵⁹ Some argue that this is de facto exchange between coupons and currencies.⁴⁶⁰ These potential problems and difficulties show that solving them require complex regulations and monitoring by the state. Unlike socialism with state ownership of all the means of production, the state under coupon socialism does not have to oversee the entire economy, but it still has to manage a significant degree of complexity.

Although coupon socialism may have the potential promote liberty, opportunity, and equality, it is controversial whether it contradicts the requirement of economic liberty that is

⁴⁵⁶ Wright, 252.

⁴⁵⁷ Ibid.

⁴⁵⁸ Ibid.

⁴⁵⁹ Roemer, 84.

⁴⁶⁰ Wright, 252.

embedded in the public ideology. Romer argues that absolutely no cash can be used in stock markets to prevent concentration of wealth. Inequality of voucher privatization in post-Soviet economies provides a lesson to carefully regulate wealth concentration, which could arise from an initially very dispersed ownership, but it is doubtful whether a complete elimination of cash in stock market is necessary because doing so will drastically change the ways of capital investment for various funds and corporations. The rights to start a business, to transfer property, to make contract with stakeholders are arguably contained in the concept of economic liberty. It is definitely justifiable for the state to regulate economic liberty and property right for the requirement of equality, but it might be controversial whether such a regulation should take a drastic form. In this regard, some mixed versions of coupons and cash can be used, but organizing the quasi-coupon socialism requires more theoretical labor.

Despite these open problems that need to be resolved via collective deliberation, simulation, and even experimentation, Roemer's coupon socialism indicates that an economy with more active state is in many ways theoretically feasible, and it may shed light into the ways, such as a new form of universal capital endowment, to organize the stock markets, where economic resources are very unequally distributed now.

2. BPO Socialism and Municipal Socialism

Given the potential problems above, it is also doubted whether decentralized way of investing is sufficient to diversify or neutralize citizens' risks, and the state should pay a more active role to exercise public ownership, distribute social dividend, and thus neutralize citizen-shareholders' risk to the average level. In this respect, some economists and political scientists proposed formulations of market socialism, under which the state plays a much more and arguably dominant role in public ownership.

James Yunker formulated a version of market socialism that he calls “pragmatic market socialism.”⁴⁶¹ The structure is centered upon a new public office called the Bureau of Public Ownership (BPO), which takes over rights of all stocks, bonds, and other financial instruments, including all voting stocks in public owned company and those owned by private households.⁴⁶² Assets owned by privately-owned firms such as small businesses are exempt from state ownership.⁴⁶³ Because of holding voting stocks, the BPO performs some roles of the board of directors by issuing macro guidelines and mandates to managing executives and approving or disapproving the compensations plans and nominations of the executives, but it is prohibited from engaging in any microeconomic decision-making such as prices, production levels, business strategy, investment, etc.⁴⁶⁴ The BPO is obligated to maximize the returns of capital and distribute to citizens as social dividend, and it can be supplemented by a network of local BPO offices throughout a country.⁴⁶⁵

Given Yunker’s formulation, BPO socialism is very like capitalism except in areas of ownership and disciplining managers.⁴⁶⁶ As the BPO is refrained from making microeconomic decisions of firms, it shall arguably fulfill obligation to maximize returns of capital via disciplining managers. It may be questioned that whether managers under BPO socialism can have sufficient incentives, as they do not receive benefit from an increase in profit, which is the case under capitalism. Regarding this point, Yunker points out that there has been numerous public corporations that are managed by salaried managers. Many investment funds own a large

⁴⁶¹ James A Yunker, "Post-Lange Market Socialism: An Evaluation of Profit-Oriented Proposals," *Journal of Economic Issues* 29, no. 3 (1995): 693, accessed May 11, 2020. www.jstor.org/stable/4226984.

⁴⁶² Ibid.

⁴⁶³ Ibid.

⁴⁶⁴ Ibid.

⁴⁶⁵ Ibid,

⁴⁶⁶ Ibid., 705-706

number of shares of these corporations and pay fund managers salary or at most bonus.⁴⁶⁷

According to his model formulated in 1974, Yunker concludes that the BPO can get very close to the maximization of profit even under a relatively low level of disciplines for managers compared with CEOs under today's capitalism.⁴⁶⁸

Another version of to get returns and distribute social dividend is through Leland Stauber's municipal socialism. Municipal socialism features some local investment funds or banks that take the financial instruments formerly owned by private households, thus making all citizens the joint owners of their respective investment funds.⁴⁶⁹ In this sense, the means of productions are locally owned rather than publicly owned, although the state can regulate these municipal funds such as redistributing from richer regions to poor regions.⁴⁷⁰ These funds are responsible for investing and maximizing their returns with some constraints. For instance, they are prohibited from investing in local areas with major employment concentrations, which may bias their investment decisions, and the sales of assets to the population or government are strictly prohibited.⁴⁷¹

Stauber argues that municipal socialism also function just like capitalism in many ways, except in the area of ownership. It might be doubtful whether there is sufficient entrepreneurial drive in the economy. Regarding this point, Stauber argues that entrepreneur still can borrow from old funds and the newly created municipal funds, and they can receive benefits in terms of the dividend of their financial instruments distributed to municipal funds and social dividends.⁴⁷²

⁴⁶⁷ Ibid.

⁴⁶⁸ Ibid.

⁴⁶⁹ Ibid., 695-696.

⁴⁷⁰ Ibid.

⁴⁷¹ Ibid., 696.

⁴⁷² Ibid., 696-697.

Moreover, the government can encourage entrepreneurial drive by issuing insurance against losses sustained by investors with respect to entrepreneurial investments.⁴⁷³

Although Yunker and Stauber claim that their formulations of socialism can function like a market economy, they may face much more difficulty compared with Romer's coupon socialism. In a stock market, one shareholder may gain by buying low and selling high, but if he really does so, it must be the case that the other shareholder sells at low and another buying high.⁴⁷⁴ Nevertheless, as the BPO is the sole owner of almost all the means of production, it is impossible to enlarge returns by allocating personal investment, so there are arguably very limited channels to maximize return by reallocating investment.⁴⁷⁵ Moreover, both versions of socialism may degenerate into state planning. To maximize return, the BPO should know the total conjunction of investment plans of firms in the country, know the optimal level of investment plans for these firms, and decide whether the decisions of these firms are too much or little. But doing so as the ultimate shareholder makes it subject to zero "animal spirits" that can otherwise motivate multiple private fund managers. In this course, the BPO displays a huge tendency to encroach into the microeconomic spheres of firms, and the planning problem may thus emerge.⁴⁷⁶ Such planning may be possible with the development of a highly intricate econometric model and arguably the advent of a super computer, but they are far from feasible. Even if they are, the administrative cost of the state may not low enough to function as smoothly as markets do.⁴⁷⁷ In municipal socialism, although shares are distributed to several funds rather than concentrated in the BPO, the same planning problem may also arise if economies of certain

⁴⁷³ Ibid.

⁴⁷⁴ Paul Cockshott and David Zachariah, *Arguments for Market Socialism*, lulu.com; null edition, 153.

⁴⁷⁵ Ibid.

⁴⁷⁶ Ibid.

⁴⁷⁷ See F. A Hayek, "Socialist Calculation: The Competitive 'Solution'," *Economica*, New Series, 7, no. 26 (1940): 125-49, accessed May 11, 2020. doi:10.2307/2548692.

municipalities are complex enough. These critiques were initially against the classical Langian Socialism developed by Austrian economists such as F. A. Hayek and Ludwig von Mises.

Regarding Yunker's and Stauber's market socialism, Hayek's argument arguably still applies.

Even if BPO and municipal socialism are somehow feasible, they definitely violate the requirement of economic liberty contained in the public ideology of human emancipation. Making personal economic decisions including stock investment is essential to shaping one's life plans, and private investment is intricately linked to the business that one entrepreneur wants to operate, the contract she wants to sign, and the goals she aspires to pursue. Even if the planning is successful, the state will paternalistically affect if not determine decisions regarding one's ends. While the controversy regarding economic liberty in coupon socialism may be resolved after resolving those technical issues as mentioned, it is arguably impossible to get resolved under BPO and municipal socialism.

Nevertheless, Yunker and Stauber provide meaningful lessons that the role of the public is not as impotent as one thought, and the idea of social dividend through public ownership should not be discarded outright, especially in terms of neutralizing risk, optimizing public goods, and promoting liberty and equality in both public and private spheres. Full public ownership faces problems regarding feasibility and economic liberty, but what about partial public ownership? James Meade's proposal of property-owning democracy also includes a communal fund that partially owns the economy and distributes social dividend to society at large. In this regard, there is still one big category that has not been explored.

IV. Social Wealth Fund: The Real Common Wealth for All

The final section of this chapter explores different practices and proposals of social wealth funds, a practice with partial public ownership of the means of production. Social wealth funds share market socialism's merits to push public goods close to the proper level, realize

substantive equal political liberty, promote fair equality of opportunity, and equality of resources in society in ways without violating economic liberty. Moreover, as shown in successful practices in Norway, Alaska, and Sweden, social wealth funds are very feasible and do not threaten economic liberty. Moreover, proposals in the U.S. and U.K. also show the possibility to institute a social wealth fund even in a non-resource-rich country. Putting legal structures aside, in terms of the socioeconomic structures, after welfare state, workplace democracy, and neo-agrarian reforms, social wealth fund may be the last structure in liberal socialism to reorient social relations and share resources for inclusive and collective prosperity, at least in today's world. It may function as the last socioeconomic structure to constitute Social Economy. The idea of a social wealth fund should be taken very seriously.

1. The Norwegian Sovereign Wealth Fund and The Alaska Permanent Fund

Norway's sovereign wealth fund, formally known as the Government Pension Fund of Norway, consists of two Norwegian investment funds with different mandates. Chronologically, the first fund established is the Government Pension Fund - Norway (GPFN), which was established in 1967 and function as a federal shareholder of many crucial domestic companies in Norway.⁴⁷⁸ It controls assets that equal about 7 percent of Norway's GDP. The second and the bigger fund established is the Government Pension Fund - Global (GPFG), which initially started as a national saving account after the discovery of oil in the North Sea and stored oil income in US dollars rather than Norwegian kroners to isolate Norway against the fluctuation of oil prices.⁴⁷⁹ It was transformed into a pension fund in 1990 after the Norwegian Parliament passed the Government Pension Fund Act. The Act stipulates that the fund can use the surplus earning

⁴⁷⁸ "The history," *Norges Bank Investment Management*, <https://www.nbim.no/en/the-fund/the-history/>, accessed November 11, 2019.

⁴⁷⁹ Ibid.

from the oil industry to invest in assets worldwide.⁴⁸⁰ In September 2017, the Fund's value hit 1 trillion US dollars in assets.⁴⁸¹ In October, the Fund's value reaches 10 billion kroner, roughly \$1.09 billion US dollars.⁴⁸² Nowadays, the sovereign wealth fund includes 1.4 percent of global stocks and shares and is worth about \$193,000 per capita.⁴⁸³

Norway also exercised effective management over the two SWFs. The GPFN operates under the general management of the Ministry of Finance according to guidelines set by the Parliament and laid out by the Act of Parliament.⁴⁸⁴ The Norges Bank Investment Management (NBIM) as a the investment-management division of the Norwegian Central Bank is responsible for the daily and specific management of the GPFN or the oil fund on behalf of the Ministry of Finance.⁴⁸⁵ The management is notable in two aspects. First, the Norwegian government stored oil profit in US dollars rather than Norwegian kroner to hedge against oil fluctuation, shield the domestic economy from excessive demand of oil, which might make exchange rate drastically fluctuate.⁴⁸⁶ In this way, Norway is able to forestall the Dutch disease, which refers to the phenomenon that huge surplus earnings from oil export appreciate the country's currency, make the manufacturing sector uncompetitive, and thus crowd out other industries.⁴⁸⁷ Second, the government is permitted spend only the real return of the fund, and any appropriation is subject

⁴⁸⁰ Ibid.

⁴⁸¹ "Norway's sovereign-wealth fund passes the \$1trn mark." *The Economist*. September 21, 2017. <https://www.economist.com/graphic-detail/2017/09/21/norways-sovereign-wealth-fund-passes-the-1trn-mark>. Accessed November 11, 2019.

⁴⁸² "Norway wealth fund grows to record 10 trillion crowns." Reuters. October 25, 2019, <https://www.reuters.com/article/us-norway-swf-record/norway-wealth-fund-grows-to-record-10-trillion-crowns-idUSKBN1X41AO>. Accessed November 11, 2019.

⁴⁸³ This figure is calculated based on the fund's total market value published on the official site of the fund and the exchange rate between US dollars and Norwegian kroner on November 10, 2019.

⁴⁸⁴ "Government Pension Fund Act," *Norges Bank Investment Management*, <https://www.nbim.no/en/organisation/governance-model/government-pension-fund-act/>, accessed May 10, 2020

⁴⁸⁵ Ibid.

⁴⁸⁶ Erling Røed Larsen. "Escaping the Resource Curse and the Dutch Disease? When and Why Norway Caught up with and Forged Ahead of Its Neighbors." *The American Journal of Economics and Sociology* 65, no. 3 (2006): 619. <http://www.jstor.org/stable/27739583>.

⁴⁸⁷ Ibid.

to parliamentary guidelines and exposed to media scrutiny.⁴⁸⁸ For Norway, oil is a blessing rather than a resource curse, which reduces the incentive of taxation, discourages fiscal discipline, and creates room for patronage politics in many other countries.⁴⁸⁹ Thanks to the strong democratic institution and ingenious management of the fund, Norway is able to channel surplus earnings from oil and other sectors for the common good. In addition, Norway is able to avoid both the Dutch disease and resource curse, which have plagued many other resource-rich countries.

The Funds and Norway's public sector have kept very robust performance. In 2019, the Norwegian fund generated 19.9 percent and secured an the net annual return of 4.2 percent.⁴⁹⁰ By using the two funds to finance pensions and social spending, Norway has remarkable and consistent records according to different metrics: ranked as the most happiest country in the world, Norway has the highest score in terms of the Human Development Index (HDI) for almost this decade and the second highest GNI per capita in 2018.⁴⁹¹

It might be argued that just relying on oil is unsustainable. In this regard, Norway has developed an investment strategy that ensures the sustainability of its SWFs. Nowadays the fund's current 10 trillion kroners is equivalent to twice the present value of future oil and gas and two and half times of Norway annual GDP.⁴⁹² In March 2019, Norway announced that it would divest oil and gas assets from its holdings. This approach was argued to benefit Norway

⁴⁸⁸ "Government Pension Fund Act."

⁴⁸⁹ Paul Collier, 2007, *The Bottom Billion*, Oxford and New York, NY: Oxford University Press, 43, 47.

⁴⁹⁰ Alicia McElhaney, "Norway's Massive Pension Fund Returns 19.9 Percent," *Institutional Investor*, February 27, 2020, <https://www.institutionalinvestor.com/article/b1kjlcy66gpz1/Norway-s-Massive-Pension-Fund-Returns-19-9-Percent>, accessed May 10, 2020; "Returns," *Norges Bank Investment Management*, <https://www.nbim.no/en/the-fund/returns/>, accessed May 10, 2020.

⁴⁹¹ Jennifer Rankin, "Happiness Is on the wave in the US, UN global report finds," *The Guardian*, March 20, 2017, <https://www.theguardian.com/world/2017/mar/20/norway-ousts-denmark-as-worlds-happiest-country-un-report>, accessed May 10, 2020; *Human Development Reports, United Nations Development Programme*, <http://hdr.undp.org/en/2018-update>, accessed May 10, 2020; GNI Per Capita Ranking, Atlas Method and PPP Based.

⁴⁹² Rob Davies. "Norway's \$1tn wealth fund to divest from oil and gas exploration." *Institutional Investor*, March 8, 2018. <https://www.theguardian.com/world/2019/mar/08/norways-1tn-wealth-fund-to-divest-from-oil-and-gas-exploration>, Accessed November 11, 2019.

financially, as it diversifies risks and mitigates the negative effects of fluctuation of oil prices and a permanent oil decline. Although oil will be eventually run out probably at some point in the mid-21st century, by linking itself to the global economy, Norway ensures that the future generation can still benefit from decades of global investment, their corresponding returns, and thus the expanding pie.⁴⁹³ The design of the SWF and the corresponding investment strategy make the prosperity much more sustainable than what might be presupposed.

Norway's SWF plays an indispensable role to creating and securing the Norwegian miracle. In many respects such as the welfare state, attenuated co-determination, social wealth fund, Norway already realizes a Social Economy. Similar funds also lie somewhere else in the world. For example, in Alaska, the Alaska Permanent Fund (APF), which as a state shareholder invested revenue from the 25 percent taxes imposed on oil and "all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue" into ownership of a wide range of companies.⁴⁹⁴ Parts of the returns are used for "inflation-proofing purposes," while the rest are used to pay Alaskan citizens the Permanent Fund Dividend, which equals "21 percent of the net income of the fund for the last five fiscal years."⁴⁹⁵ The APF also had remarkable performance, as the average annual investment return is 8.78 percent.⁴⁹⁶

Norway's and Alaska's experiences provide meaningful lessons to foster an inclusive and sustainable Social Economy. Nevertheless, although their institutions are able to withstand the force of resource curse, Norway has oil to start with. Oil might be curse to many countries, but it might also be a blessing for countries with strong institutions. However, many countries do not

⁴⁹³ "Norwegian society." The Norwegian Permanent Delegation to the Council of Europe. <https://www.norway.no/en/missions/coe/values-priorities/norway-today/>, accessed November 11, 2019.

⁴⁹⁴ Matt Bruenig, "Social Wealth Fund for America," *People's Policy Project*, <https://www.peoplespolicyproject.org/projects/social-wealth-fund/>, accessed May 10, 2020.

⁴⁹⁵ Ibid.

⁴⁹⁶ Ibid.

have such a good fortune. Moreover, from the standpoint of global distributive justice, whether just a few countries own the world's key resources is just is very questionable.⁴⁹⁷ Without oil, it might be questioned whether it is possible to create a just successful fund to socially empower the economy.

The short answer is yes in terms of practical feasibility but uncertain in terms of political feasibility, as shown in the story of wage-earner fund in Sweden.

2. The Swedish Wage-Earner Fund

In 1970s, Sweden had the increasing need to tackle rising inequality. In this course, economist Rudolf Meidner developed a plan of employee-owned fund. To create and manage the fund, Meidner proposed that the government should impose share-levy taxes, which are another type of wealth tax in the form of new issues of corporate shares rather than cashes.⁴⁹⁸ The amount of share-levy tax equals the value to the amount of profit tax, whose levels for different brackets depend on different levels profitability.⁴⁹⁹ Therefore, levy-tax does not immediately affect the income stream for corporations.⁵⁰⁰ Rather, shares, controls, and productive relations between shareholders and employees will be changed gradually.

Shares collected by share-levy taxes will be channeled into a wage-earner fund collectively owned by all employees, who control the fund through a democratic process. Workers have the right to receive social dividend from the fund, and the right is inalienable, meaning that their shares can neither be sold nor transferred to prevent a concentration of shares by the wealthy. Moreover, workers can exercise control of the fund by electing representatives

⁴⁹⁷ Thomas Piketty compared with Norway with Wakanda in Marvel's movie *Black Panther*. The latter finally decides to share with the world its vast resources of vibranium, which is a type of almost omnipotent metal. Although Norway's SWF is too small for the global economy, the point about global distributive justice should be taken seriously.

⁴⁹⁸ Wright, 230.

⁴⁹⁹ Ibid.

⁵⁰⁰ Ibid, 230-231.

from unions, who can codetermine with companies' board of directors and vote on corporate policies. In this way, It can be argued that wage-earner fund is essentially another form of workplace democracy 2.0 beside Roemer's coupon socialism, as citizens can exercise controls and own shares even in firms that they don't work for.

As corporations issue more shares over time, it is possible that workers can own the majority of shares and shift the control from private shareholders.⁵⁰¹ It is also possible that firms can still be mostly privately owned, as private investors can still invest in equities, just as how capitalists markets normally operate.⁵⁰² Even if firms remain mostly privately owned, it would be unlikely that some shareholders can exercise concentrated and dominant control over firms and claim a disproportionate amount of shares because of issuances of new shares and impositions of limit of share ownership like those proposed by Piketty.

However, the wage-earner fund did not survive long for political reasons.⁵⁰³ After the Swedish Social Democratic Party and the Swedish Trade Union Confederation (LO.) promulgated the bill of the wage-earner fund, it had been receiving relentless oppositions not only from right-wing conservatives, capitalists, and even among some social democrats.⁵⁰⁴ In 1976, the Social Democratic Party lost its election for the first time in four decades partly because of the oil shock and its other platforms, and the newly elected right-wing government terminated the fund.⁵⁰⁵ Although the fund was reintroduced in 1984, it did not accompany an as

⁵⁰¹ Michael A. McCarthy, "Economic Democracy, If We Can Keep It," *Jacobin*, May 30, 2019, <https://jacobinmag.com/2019/05/bernie-sanders-meidner-plan-worker-ownership>, accessed May 11, 2020.

⁵⁰² Ibid.

⁵⁰³ Wright, 230.

⁵⁰⁴ Peter Gowan and Mio Tastas Viktorsson, "Revisiting the Meidner Plan," *Jacobin*, August 22, 2017, <https://www.jacobinmag.com/2017/08/sweden-social-democracy-meidner-plan-capital>, accessed May 11, 2020.

⁵⁰⁵ Ibid.

strong worker movement and never managed to own more than 10 percent of the economy because of a short span of time.⁵⁰⁶

Sweden's wage-earner fund demonstrates the feasibility of a social wealth fund in countries without too much endowment of natural resources. Although not being tested for a long time, the wage-earner fund is entirely feasible because similar structures are already in practice in capitalist markets. Today, there are many private index fund owned by the rich with portfolios that mimic some market index such as S&P 500. What's changed in the wage-earner fund is only two things, and none of which make it infeasible. First, shareholders are average citizens rather than the rich only. The change of shareholders does not affect feasibility.⁵⁰⁷ Second, the fund is a public index fund rather than private index fund. This change does not affect feasibility either, as long as the public fund can function like a private investment fund, and many other private investment funds or similar private entities coexist with the public fund in the economy to preserve market transactions and forestall planning.⁵⁰⁸ Such structures are already prevalent in capitalist economies, and Norway's miracle also exemplifies the success of its type.

3. Organizing a social wealth fund

Moreover, Norway, Alaska, and Sweden can provide the inspiration of organizing a social wealth fund in terms of sources, management, investment, criteria of uses, and citizens' ownership and control. Four types of sources can finance the fund: returns from existing public wealth and state-owned enterprise (SOEs), public revenue from natural resources, taxation such

⁵⁰⁶ Ibid.

⁵⁰⁷ Ibid.

⁵⁰⁸ Matt Bruenig, "Index Funds Are Proof of Concept For Market Socialism," *People's Policy Project*, August 17, 2017, <https://www.peoplespolicyproject.org/2017/08/17/index-funds-are-a-proof-of-concept-for-market-socialism/>, accessed May 11, 2020.

as progressive wealth and income tax,⁵⁰⁹ levies on share ownership, and other types of taxes such as IPO tax, mergers and acquisition tax, tax on leveraged purchase, financial transaction taxes, transfer of government assets, etc.⁵¹⁰ For management, the Norwegian model of the division of labor between the general and specific management can be used. In terms of general management, the ministry of finance sets general guidelines, which shall be approved by the legislature.⁵¹¹ The general guideline should explicitly stipulate the goals of investment, types of permissible investment, ethical codes for investment and exercising voting rights on share ownership, and the criteria and procedure of what the government can spend, when it can spend, and how much it can spend.⁵¹² For instance, the government is only allowed to spend the annual return of the fund of the last year or the expected annual return of the fund of this year.⁵¹³ In terms of specific management, either a delegated SOE (the Alaskan model), or the central bank, more specifically the department (the Norwegian model) is responsible for daily management of the fund, and the ministry of finance should not interfere in daily management.

As for investment, the fund can invest in domestic and international equities and bonds as listed securities and then gradually diversify the portfolio by investing in unlisted assets such as real estate and private equity, if relevant stakeholders of unlisted asset express the intent to conduct transactions.⁵¹⁴ Multiple uses of the fund are possible, such as social dividend, pension, social spending, economic stabilization or stimulus during the time of crisis, and capital

⁵⁰⁹ According to Piketty's tax's scheme mentioned earlier, for wealth tax 40 percent of national income is left after financing the universal capital endowment. For income tax, 40 percent can be used for social spending after financing the basic income. Therefore, at least 40 percent of national income can be channeled into the fund.

⁵¹⁰ Stewart Lansley, "How to Pay for the UK's First Social Wealth Fund," in *A Sharing Economy: How Social Wealth Funds Can Reduce Inequality and Help Balance the Books*, 55-76. Bristol: Bristol University Press, 2016, Accessed May 11, 2020. doi:10.2307/j.ctt1t89gzz.10.

⁵¹¹ Matt Bruenig, "Social Wealth Fund for America."

⁵¹² Ibid.

⁵¹³ Ibid.

⁵¹⁴ Ibid.

endowment, as long as these uses are democratically agreed upon and subject to within the limit of spending set by the criteria. Finally, citizens can exercise their controls either indirectly or directly. Like the Norwegian model, citizens can exercise the indirect control, through the legislature, media scrutiny, and other forms of public debate. Meanwhile, the ministry of finance directly exercises control but should be accountable to the legislature.⁵¹⁵ Alternatively, like the Swedish model, citizens can exercise control in a relatively more direct way by electing delegates such as legislators or representatives from civil associations, who can co-determine with the ministry of finance to formulate the annual guideline of the fund and approves executives' pay packages.⁵¹⁶

Social wealth funds in Norway, Alaska, Sweden, the proposal above demonstrate a wide range of possibilities to institute partial ownership in economy, demonstrating a promising prospect to realize social empowerment over economy in the long run.

This chapter thus finishes formulating the components of property-owning democracy or liberal socialism, which is the last socioeconomic structure to constitute the Social Economy. Meanwhile, the specific ways to organize property-owning democracy is also discussed extensively as the answers to the "how to do it" question.

As mentioned at the beginning of the chapter, elements of liberal socialism covered in this chapter are not meant to be definitive. Rather, they provide some fresh perspectives to engage in a civic discussion on how to organize and transform the economy and lay down the political foundation of markets that correspond to the moral foundations. The only way to test whether these elements are really appropriate is through collective deliberation and concrete experimentation. In experimentation, failures do not justify the rejection of the moral ideals but

⁵¹⁵ Ibid.

⁵¹⁶ Ibid.

urge us to think of modifications or even better alternatives to strive for these ideals. The quest for political democracy does not succeed all the time, but failures do not reject democratic ideals but inspire new endeavors to make reality conform to such ideals. The same still holds true for economic democracy.

The socioeconomic structures of the Social Economy are all complete, but what about the legal structure? As argued in Chapter IV, socioeconomic rights are only partial rights of citizens. Are socioeconomic rights as the partial rights of citizen as the legal structure compatible with a complete socioeconomic structures of Social Economy? The discussions thus far in this chapter mainly focus on policy aspects, but are or should they be purely policy questions? Marx argues that the ruling class is forced to represent their particular interests as the general interests, and they use law as an instrument, namely, as a part of the superstructure to enshrine their particular interests. One may have some opinions on historical materialism. For instance, G. A. Cohen can say that the inevitability of socialism depends on people's robust egalitarian ethos.⁵¹⁷ Nevertheless, given nowadays escalating economic inequality, stagnating and shrinking opportunity for those in the middle and at bottom, and the quasi-religious property right or other single right or liberty, which may allow highly oligarchic situations similar to that in Liu's story to emerge, it is arguably hard to deny that laws or the legal superstructure nowadays even in many advanced political democracies are hypocrisy, just as what Marx critiques. Moreover, even if socioeconomic structures can realize their human potential, there is no guarantee that the march of human history will come to a point that reproduces inequality, and the form of the new inequality renders all of these socioeconomic elements useless. If this really occurs for some unanticipated reasons, a partial right of citizen cannot justify new socioeconomic structure to

⁵¹⁷ Cohen, *If You're An Egalitarian, How Come You're So Rich?*

restore equality. Many philosophical and policy questions ultimately become legal questions, and so should the road to human emancipation. Therefore, the next and final chapter shall return to the legal structure and explore general economic equality as a prerequisite of a constitutional order, the legal structure that renounces the hypocrisy of the current superstructure and reorients the rights of man to the rights of citizen, and provides a bold constitutional amendment as the constitutional guarantee of human emancipation.

Chapter VII – Transcending Capitalism III: From the Rights of Man to the Rights of Citizen

“Glory to Mankind.”

- *“Nier: Automata”*

This chapter returns to the legal structure to fully constitutionalize the rights of citizen and renounce the hypocrisy of superstructure. More specifically, the goal of this chapter is to propose a bold constitutional amendment that seeks to explicitly constitutionalize some abstract yet enforceable principles that enshrine the rights of citizen. After a thorough analysis of all socioeconomic structures, perhaps it can be seen why the second and the more important component of the legal structures is left to the end rather than discussed right after socioeconomic rights. The discussion of these socioeconomic structures demonstrates the ample uncertainty that can only be resolved through collective deliberation and concrete experimentation. Moreover, the march of human history is teeming with unanticipated development for even such deliberation and experimentation to wrestle with. The variety of socioeconomic structures, the uncertainty of implementation, and unanticipated nature of human history provide some key reasons that the specific way to constitutionalize the rights of citizen is not through the constitutionalizing this or that structure. Rather, but some abstract yet enforceable principle is arguably a better approach that stipulates the relations among rights and liberties and command the commitment to restore equality in resources and social power. By discussing this component of legal structure right after Chapter IV about socioeconomic rights, there might be more unnecessary controversy regarding the specific way of constitutionalizing the rights of citizen, such as the debate about whether to constitutionalize this or that program.

This chapter as the final chapter aims to complete the second legal structure of the Social Economy by attempting to constitutionalize the rights of citizen as not only constitutional

commitment but also textually explicit provisions. In the process of doing so, I shall first illustrate a political economy of general economic equality and opportunity is the prerequisite of a full constitutional order, and realizing, securing, and defending this prerequisite requires robust civic duties to exercise rights for public interest far beyond the pursuit of mere egoistic interest and modest concern and respect to other fellow citizens presupposed in the commitment of socioeconomic rights. We shall also see that among many options, why the option of constitutionalizing both commitment and specific provisions is chosen, rather than relying on constitutionalizing declaratory principles or just court interpretation. Finally, I shall boldly propose a constitutional amendment regarding the prerequisite of constitutional order and its relations with other constitutional rights and liberties, This proposed amendment can shed some light on dethroning the quasi-religious status of some rights, especially property rights. Moreover, far from an empty statement, the qualified guarantee of general economic equality and opportunity is actually enforceable without ignoring the commitment to other rights. The amendment or the spirit behind it can arguably change legal structures in fundamental ways to work toward the public interest and turn rights of man to rights of citizens, thus providing a constitutional guarantee for human emancipation.

It might be argued that issues such as economic inequality should be resolved in politics and policies, and the current glaring level of inequality is only the issue of capitalism rather than a constitutional issue. To begin with, let's start with the intricate linkage between socioeconomic structures and constitutional structure, and why saving a full constitutional order requires an economic equality and opportunity as the prerequisite.

I. The Economic Prerequisite of the Constitutional Order

In terms of constitutional equality, topics such as racial and gender equality often come to mind. In terms of economic equality and equal opportunity, this is not the case. Books of

constitutional laws typically do not have a chapter of economic equality and at most cover the topics of socioeconomic rights. However, the lack of explicit textual support and discussions on this issue does not mean that an economic order has nothing to do with a constitutional order. Modern constitutionalism actually presupposes general economic equality and equal opportunity as the necessary economic prerequisite. Meanwhile, the enshrinement of the rights of man rather than the rights of citizen is arguably an inconsistency with this prerequisite. To resolve this inconsistency, modern constitutionalism shall urge citizens to exercise their constitutional duties to resolutely realize, secure, and defend this prerequisite.

To illustrate why general economic equality and opportunity constitute the precondition of a full constitutional order, the US Constitution can illustrate this point. It is important to point out that picking the US Constitution does not mean American exceptionalism in that regard. Rather, the economic prerequisite applies to modern Constitutionalism in general regardless of locations, and the US Constitutionalism can illustrate this case vividly. Moreover, the US Constitution stands as a watershed that distinguishes between the legal structure of old regimes that institutionalizes classes and modern constitutionalism as anti-oligarchic and classless constitutions that presuppose general economic equality and opportunity. In that regard, it is helpful to use the US Constitution to illustrate this point of economic prerequisite.

In the history of mankind, many past societies had to face the issue of class distinctions and a significant degree of economic inequality by institutionalizing class distinctions into the legal structure.⁵¹⁸ Given class distinctions such as nobles, clergy, and commoners, or the Hegelian “master and slave” in general, past rulers knew that economic inequality will translate into political inequality. The key point to understand this dynamics is “property implies

⁵¹⁸ Sitaraman, 4, 23-29.

power.”⁵¹⁹ It follows that those with more property have more power due to their wealth, connections, and maneuvers of public institution. Those with property and thus power can then institutionalize the conditions of inequality and only benefit themselves at the expense of public interest.⁵²⁰ Such a condition of inequality is inherently unstable for the rich to dominate the poor or for the poor to revolt against the rich. The way that past societies handled this unstable condition of inequality is the “class-warfare constitution,” which institutionalize class distinctions and thus socioeconomic inequality that comes with it.⁵²¹ By institutionalizing the class distinctions, different classes of different interests can compete with each other, rather than one dominating another.⁵²² Many ancient political thinkers, their proposed political and legal institutions, or institutions of their time can confirm to this argument. Aristotle’s conception of a mixed government can exemplify this point. In *Politics*, Aristotle thinks that aristocracy, or the rule of a few, tends to degenerate into oligarchy, or the rule of the rich.⁵²³ On the other hand, democracy, or rule of many, tends to degenerate into tyranny, with the majority oppressing the minority.⁵²⁴ To prevent both extreme regimes, Aristotle thinks that by institutionalizing aristocracy and democracy, a mixed government with different interests can effectively compete with each other, such that no class can dominate the other.⁵²⁵ Such a legal structure is essentially a type of the class-warfare constitution. To put it simply, ancient societies tend to build economic classes into the constitution in order to make their political and legal order stable.

Such stability is not equivalent to genuine recognition of equals, and it is inadequate even on the ground of the rights of man. The US Constitution, for instance, does not recognize any

⁵¹⁹ Ibid., power here refers to both political and social power.

⁵²⁰ Ibid.

⁵²¹ Ibid., 29.

⁵²² Ibid. 29-34.

⁵²³ Ibid. 31-32.

⁵²⁴ Ibid.

⁵²⁵ Ibid., 486.

classes such as nobility or aristocracy.⁵²⁶ Moreover, the socioeconomic conditions during the founding era, also corresponded to this approach. Before the advent of industrial capitalism at a massive scale, there was widely dispersed property among American citizens, who could also move westward, had a piece of land, reap the fruit of labor, and live independently.⁵²⁷ The U.S. was a classless society to its citizen at its earliest time both in terms of the constitution and its socioeconomic conditions. To put it differently, the U.S. during at its founding was arguably a proto-property-owning democracy. Although slavery complicated the issue, it was hard to deny that such an equal socioeconomic condition constitutes a necessary constitutional prerequisite for the republic, at least for citizens at that time. Scholars such as Ganesh Sitaraman, Joseph Fishkin, and William Forbath call US Constitution a “middle-class constitution” and “the anti-oligarchy constitution.”⁵²⁸ Here the word “middle-class” shall not be construed as people who receive a certain range of income or as those who have certain occupations. According to Sitaraman’s definition, a middle class under the constitutional context means a relative economic equality.⁵²⁹ A middle-class, where most people fall in the middle with relative economic equality, without huge divergences between the riches and poor, is the economic precondition of the constitutional order.⁵³⁰ Concentration of economic wealth and power, on the other hand, have to be curbed because they breed an oligarchy of “economic royalists” or “moneyed aristocracy” will undermine this precondition and thus equal citizenship.⁵³¹ Therefore, a general economic equality and equal opportunity are indispensable to equal citizenship, not only from the

⁵²⁶ Ibid., 67-74.

⁵²⁷ Ibid., 61-67.

⁵²⁸ See Joseph Fishkin and William E. Forbath, “The Anti-Oligarchy Constitution,” *Boston University Law Review*, Vol. 94, No. 671, 2014; U of Texas Law, Public Law Research Paper No. 561. Available at SSRN: <https://ssrn.com/abstract=2431255>.

⁵²⁹ Ibid., 13.

⁵³⁰ Ibid.

⁵³¹ Fishkin and Forbath, 673.

standpoint of political philosophy or political theory, but also on the ground of constitutional prerequisites.

Moreover, generations of Americans have manifested this understanding of constitutional order, making it one important tradition that should not be forgotten not only for America but also the world of modern constitutionalism as well. The last chapter mentioned Thomas Paine and his *Agrarian Justice*, but Paine was not the only figure. Noah Webster succinctly captured the truth of property: “A general and tolerably equal distribution of landed property” was the “whole basis of national freedom.”⁵³² The Father of Constitution James Madison emphasized the constitutional goals of “establishing a political equality among all [...] without holding unnecessary opportunities from few [...] and “without violating the rights of property, reduce extreme wealth to a state of mediocrity, and raise extreme indigence toward a state of comfort.”⁵³³ In *Federalist 10*, Madison warned that “the various and unequal distribution of property” has been “the most common and durable source of factions.”⁵³⁴ Alexander Hamilton, who is sometimes viewed as a pro-market Founder, also argued that liberty requires equality. He argued that political liberty will be secured only if “property continues to be equally divided,” such that “the tendency of the people’s suffrages, will be to elevate merit even from obscurity.”⁵³⁵ This constitutional understanding was also taken seriously by Jacksonians, Populists, Progressives, New Dealers, who contended against the degeneration into an aristocracy” and the dominance of oligarchy over economy and civil society.⁵³⁶ Sitaraman, Fishkin, and Forbath meticulously detailed how past reformers took constitutional duties to implement a sweeping range of reforms.

⁵³² Sitaraman, 68.

⁵³³ Cass Sunstein, *The Second Bill of Rights*, New York, NY: Basic Books, 2004, 116.

⁵³⁴ James Madison, Alexander Hamilton, and John Jay, *The Federalist Papers: A Collection of Essays Written In Favour of the New Constitution*, originally published 1788, 2015, 43, Kindle Edition.

⁵³⁵ Sitaraman, 94.

⁵³⁶ See Fishkin and Forbath.

While their opinions differed partly because of different historical and social conditions, they could converge on the fundamental commitment to rescue American Constitutionalism from the degeneration into oligarchy that serves the few at the top but not the people.

Nowadays, massive economic inequality re-emerges not only in the U.S. but also throughout the world. Modern constitutionalism faces a perilous danger. Rather than focusing on the civic commitment to genuine full equal citizenship, which requires a general economic equality and opportunity, capitalist societies seem to enshrine certain civil liberties and rights with an absolute or even quasi-religious status like the property right in Liu's story that disregards the necessary conditions for their fellow citizens' full citizenship. The absolute status of property has almost always accompanied human history, and Thomas Piketty's recently published *Capital and Ideology* painstakingly analyzed this economic history. Here, just a few cases can illustrate this point. Courts in the United Kingdom and France ruled to compensate slaveowners after the two countries abolished slavery in 1833 and 1848.⁵³⁷ In 1895, the US Supreme Court interpreted very conservatively that a federal income tax would be unconstitutional, although the subsequent Sixteenth Amendment changed that status.⁵³⁸ A former president of the French Constitutional Council was also proud of his decision to struck down a marginal tax rate of 75 percent for those who earn more than 1 million euros.⁵³⁹ The reason he was proud of this decision is merely that he just thinks it is "confiscatory" without arguing it on the ground of constitutional texts and values.⁵⁴⁰ It is also criticized that this judge steps into the legislative area and subsites his conception over democratic policy-making.⁵⁴¹ It is important to

⁵³⁷ Piketty, *Capital and Ideology*, 995.

⁵³⁸ 997.

⁵³⁹ Ibid., 999.

⁵⁴⁰ Ibid.

⁵⁴¹ Ibid.

point out that these quasi-religious rights include but are merely limited to property rights. For instance, in the U.S., a series of decisions such as *Citizens United v. FEC* and *McCutcheon v. FEC* limited the value to control corruption to merely freedom of speech and legitimized unlimited corporate contributions to political candidates in elections, which give corporations the power to overwhelm small contributions by ordinary citizens.⁵⁴²

The quasi-religious status of property and other civil rights is fundamentally at variance with a middle-class or anti-oligarchy constitution. The quasi-religious status also legitimizes an egoistic ethos. On the contrary, general economic equality and opportunity require significant civic and egalitarian ethos to exercise rights in accordance with the rights of citizen, both in political spheres and non-political spheres such as the civil society and economy. Therefore, the quasi-religious status of certain rights is arguably the institutionalization of rights of man, while the commitment to a middle-class or anti-oligarchy constitution is arguably the constitutional commitment to the rights of citizen. Therefore, today's society lives in an inconsistency in terms of the inconsistency between not only the social order and the constitutional order, but also the enshrinement of the rights of man and weak commitment to the rights of citizens. To realize human emancipation, how to invert this relation between these rights? How should we reform modern constitutionalism to restore its economic prerequisite?

II. Why Should We Make the Rights of Citizen Textually Explicit?

The realization of rights of citizen and human emancipation centers upon the political economy of general economic equality and its corresponding constitutional duties to resolutely realize, maintain, and defend this economic prerequisite. In order to do so, I argue that it is necessary to constitutionalize the rights of citizen in textually explicit ways in order to provide

⁵⁴² Sitaraman, 264-269.

constitutional guarantees against the current and reemerging forces that threaten the political economy of equality. I will argue that first, why a constitutional guarantee is necessary, and second, why this guarantee has to be textually explicit. After addressing these questions, I will boldly propose a constitutional amendment that fundamentally reorients the relations among rights and transform the rights of man to the rights of citizen.

Why do we need a constitutional guarantee? It might be argued that restoring the political economy just needs suitable policies and programs, and implementing these programs and complying with relevant legislative laws are enough to maintain a middle-class or anti-oligarchic constitution. While these programs should be taken seriously, reforms in the constitutional sphere are also imperative. While the last two chapters examine some socioeconomic structures that constitute such a political economy, the discussions mainly focus on how they together fit the public ideology of human emancipation in the socioeconomic realm and “how to do it.” If these socioeconomic structures are really suitable, rather than just formulating these programs, it would be necessary to justify these socioeconomic structures from constitutional standpoint, namely by constitutionalizing the rights of citizen, for two reasons. First, as the above discussion just reveals the inconsistency between the commitment to rights of man and rights of citizen, it is imperative to resolve this inconsistency in the constitutional sphere by reorienting the rights of man to the rights of citizen. The rights of citizen can justify these socioeconomic structures constitutive of the necessary political economy as the constitutional prerequisite. Ultimately, these structures require people’s species-being and self-government to commit to economic equality, the rights of citizen, and substantive equal citizenship. On the contrary, the rights of man cannot necessarily justify these structures. If a society still maintains a cult of property rights or other civil rights and liberties rather than a bundle of rights and liberties necessary to

full and equal citizenship, then any attempt to reform would be futile. As we just discussed, worshipping certain rights over others is very likely to undermine socioeconomic reforms, just as the Supreme Court during the Roosevelt Administration stroke down a series of New-Deal reforms, and English and French courts either ruled these reforms as “confiscatory” or demanded the compensation of property accumulated through enslavement imposed on others, which is arguably the most obvious form of alienation. On the other hand, constitutionalizing the rights of citizen provides a legal guarantee for the political economy, reorients the relations of various civil rights and liberties, preserves the whole scheme and equal importance of every rights and liberties, rules out these scenarios justified by the rights of man, and commands socioeconomic reforms justified by the rights of citizen.

Second, the constitutional guarantee of the rights of citizen beyond just philosophical commitment can command necessary actions and suitable policies to confront unanticipated forces that reproduce massive inequality. As the history of mankind shows, the sole focus on reforms in empirical socioeconomic structures never guarantees the full realization or restoration of equality, partly because of historical limitation. Adam Smith hopes to unfetter peasants from feudalism in master-slave relations through the mutual recognition of interests of markets, and Thomas Paine hoped to perpetuate the equal economic preconditions for the US Constitutional order through land property. Hegel thought that Prussia was close to the end of history despite some minor and manageable problems.⁵⁴³ Madison resorted the large commercial republic teeming with a plurality of associations with distinct interests to tame “the various and unequal distribution of property” as “the most common and durable source of factions.”⁵⁴⁴ Nevertheless,

⁵⁴³ See G. W. F. Hegel, *Reason in History: A General Introduction to the Philosophy of History*, Upper Saddle River, NY: Prentice-Hall, INC., 1997.

⁵⁴⁴ James Madison, Alexander Hamilton, and John Jay, *The Federalist Papers: A Collection of Essays Written In Favour of the New Constitution*, 43, Kindle Edition.

what they all did not anticipate or realize was the advent of industrial capitalism that reproduced inequality and class distinctions in an unprecedented way. The mutual recognition of interests in market interaction does not guarantee extended beneficence. The means of production evolves and never restricts itself to land property. Prussia was far from the end of history. The polarization of interests turns out to be unequal distribution of property rather than “various” kinds of property. Humanity can institute reforms in the quest for equality, but what if the march of human history or the dialectical movement of capital brings another unanticipated development that reproduces this inequality again? For instance, capitalism is known for its breakthrough in productive forces, so what would further and further breakthrough in productive forces such as AI, nuclear fusion, or even interstellar travel, bring to mankind for the next hundreds or even thousands of years? These questions are impossible for us to answer now, but if we have constitutional guarantees to command necessary actions to confront economic inequality, then future mankind will carry out and their constitutional duties to formulate and implement more concrete and suitable approaches in their era.

Constitutionalizing the rights of citizens is necessary, but why does it have to be textually explicit? Namely, why is a constitutional amendment for general economic equality and opportunity necessary? Can this amendment be enforceable? Can it challenge the supremacy of the rights of man over the rights of citizen? Before answering this question, it is prudent to review several potential options: (1) relying on courts to extract an interpretation for economic equality and opportunity, (2) constitutionalizing some programs, (3) constitutionalizing a textually explicit commitment or declaration only without any enforcement power, and (4) constitutionalizing an enforceable and textually explicit amendment. Among these options, I find the fourth option the most attractive.

The first option is not reliable. Nowadays, it seems many problems arise because courts monopolize the interpretation of the constitution, and the interpretation is very rigid and clause-bound. In terms of the separation of powers, indeed, only courts should interpret the constitution, but in terms of a coherent account of constitutionalism, the duty lies in all citizens' obligations to engage in civic dialogues and defend constitutionalism. However, as some rulings briefly discussed above show, the monopolization of constitutional understanding by courts, often in clause-bound rather than principle-informed ways, catalyze the corrosion of the economic equality as the necessary constitutional prerequisite. After all, clauses by courts definitely do not exhaust constitutional understandings, and underlying principles and commitments also matter.⁵⁴⁵ Only citizens as a whole, rather than just a few judges, can collectively and coherently decide these principles and commitments. James Madison urged that the bill of rights to represent a set of commitments that “would define the citizenry’s own values”, rather than as “a lawyer’s document or a code for judicial enforcement.”⁵⁴⁶ Citizens are obligated to carry their own duties to demonstrate the commitment to economic prerequisite, and in this case specifically, by constitutionalizing an amendment that explicitly affirms this commitment. In this regard, courts can interpret the constitution based what the commitment entails and commands for its citizens. As Ronald Dworkin puts it, judges should not be bound by clauses alone but should “identify rights and duties, so far as possible, on the assumption that they were all created a single author – the commonly personified – expressing a coherent conception of justice and fairness.”⁵⁴⁷

⁵⁴⁵ Sunstein, *The Second Bill of Rights*, 61-66

⁵⁴⁶ *Ibid.*, 179.

⁵⁴⁷ Ronald Dworkin, *Law's Empire*, Cambridge, MA and London, England: The Belknap Press of Harvard University Press, 1986, 225,

It may be argued that judges may interpret constitution in favor of securing its economic prerequisite based on certain already constitutionally entrenched clauses such as equal protection under law. There were indeed such views in history. For instance, Jacksonians argued that equal protection under law should not only about applying laws generally and universally but also protecting the poor from “class legislation that privileged the rich few.”⁵⁴⁸ While whether clauses like equal protection under law can extend to protection of economic equality deserves more scrutiny, a judicial interpretation in that regard is arguably too wide a step. Instead, a judicial interpretation for economic equality should be based upon a textually explicit amendment. Without such an amendment, judicial interpretation and enforcement might generate a series of complex issues, especially the injection of judges’ own view of what a general economic equality should look like and how to get there. Perhaps some lines by Dworkin can shed some light on this issue:

*“Even a judge who believes that abstract justice requires economic equality cannot interpret the equal protection clause as making equality of wealth, or collective ownership of productive resources, a constitutional requirement, because that interpretation simply does not fit American history or practice, or the rest of the Constitution.”*⁵⁴⁹

Here Dworkin argues that judges should neither inject their moral injections into the constitution nor “read the abstract moral clauses as expressing any particular moral judgment.”⁵⁵⁰ In this specific example, Dworkin argues that economic equality is not a part of the constitutionalism, and judges should not interpret the equal protection clause as the demands for approaches to economic equality. Dworkin should arguably research more American history or

⁵⁴⁸ Fishkin and Forbath, 675.

⁵⁴⁹ Dworkin, “The Moral Reading of the Constitution,” *The New York Review of Books*, March 21, 1996, <https://www.nybooks.com/articles/1996/03/21/the-moral-reading-of-the-constitution/>, accessed May 11, 2020.

⁵⁵⁰ Ibid.

practice in those area before reaching this specific conclusion.⁵⁵¹ Nevertheless, he makes a fair point that judges should not make particular moral judgements based on some abstract moral clauses. As those example he raises, judicial interpretation for economic equality brings the complex issues of how to formulate, choose, and implement particular approaches to work toward economic equality. These approaches are arguably too specific for judges to decide and should be left for collective democratic discussions and legislations. It might be argued that judges can emulate what South African judges have done in a series cases regarding socioeconomic rights by judicially commanding actions to progressively realize economic equality that take legislative rather than judicial forms. Nevertheless, as we see in Chapter IV about socioeconomic rights, this approach is feasible because South Africa already has some textually explicit clauses of socioeconomic rights to start with. With such publicly authorized rights, courts can interpret these clauses in accordance with the coherent conceptions of justice that people give themselves. Without such clauses, it is essentially the court that legislates too specific an approach. Even though people including judges should carry their constitutional commitment to economic equality sustained by rights of citizens, how to carry such a commitment requires citizens as a whole.⁵⁵²

Regarding the second approach that constitutionalizes either some programs or their operating principles, beside the reason mentioned at the beginning of this chapter, there are two other worries. First, the programs may not be encompassing enough to exercise the commitment to constitutional equality. Second, these programs or their principles may be too specific to be flexible. Some scholars' proposals can be used illustrate these two points.

⁵⁵¹ Thomas M. Hanna, "Nationalization Is as American as Apple Pie," *Jacobin*, November 4, 2019, <https://www.jacobinmag.com/2019/11/nationalization-is-as-american-as-apple-pie>, accessed May 11, 2020.

⁵⁵² Dworkin, 225; Sunstein, 179.

For example, although Sitaraman painstakingly argues why the US Constitution is a middle-class constitution, the reforms he proposes do not include a direct amendment of equal economic equality and opportunity, although he argues that his proposal is a pre-commitment strategy that forestalls the reemergence of inequality that threatens the middle-class constitution.⁵⁵³ Policy proposals aside, some of Sitaraman's proposals of constitutional amendment include provisions that "automatically trigger income, wealth, estate tax rates, campaign finance restrictions, severe lobbying reforms once economic inequality reaches a certain level, and so forth."⁵⁵⁴ Similarly, other scholars have proposed similar proposals. Piketty proposes to write fiscal justice into the constitution. By fiscal justice, Piketty means that the constitution should define "the principle of progressivity of as precisely as possible while leaving it up to elected legislative bodies to determine how much progressivity there should be."⁵⁵⁵

Beside Sitaraman's and Piketty's proposals that seem to focus more on redistribution, other scholars focus more on equality guarantee in terms of nondiscrimination based on socioeconomic conditions. For instance, Rosalind Dixon and Julie Suk propose constitutional equality guarantees as antidiscrimination laws based on the grounds of "social origin, property, [and] wealth" as the constitutional equality guarantee to restore the social conditions of general economic equality and equality of opportunity.⁵⁵⁶ Dixon and Suk argue that the state still has no obligation to address state discrimination based on social conditions such as wealth.⁵⁵⁷ In *San Antonio Independent School District v Rodriguez*, the Supreme Court ruled that the Equal Protection Clause does not apply to policies that disadvantage children who live in

⁵⁵³ Ibid., 293-295.

⁵⁵⁴ Ibid., 294.

⁵⁵⁵ Piketty, *Capital and Ideology*, 996.

⁵⁵⁶ Rosalind Dixon and Julie Suk, "Liberal Constitutionalism and Economic Inequality," *The University of Chicago Law Review* 85, no. 2 (2018): 3381-384, <https://www.jstor.org/stable/26455911>.

⁵⁵⁷ Ibid., 381-384.

neighborhoods with low property values.”⁵⁵⁸ The *Rodriguez* case legitimizes that local education can be funded by local property tax, thus legitimizing vastly different educational funding and quality because of vastly different property values of different regions.⁵⁵⁹ The *Rodriguez* case also shows that social nondiscrimination is still not fully actualized and to some extent still enshrines quasi-religious status of property and the privileges that follows, despite the claim of equal protection under law stipulated in the Fourteenth Amendment.⁵⁶⁰ Therefore, certain constitutional provisions are necessary to institutionalize nondiscrimination based on social conditions.

These proposals are well formulated, but perhaps they are neither enough nor flexible. Although Sitaraman calls his proposal “radical,” at this point of this paper, his proposal is arguably not radical enough. Although his proposal is a type of pre-commitment strategy, this pre-commitment is not comprehensive enough to encompass all necessary components of the political economy of general economic equality and equal opportunity. For instance, it seems that Sitaraman’s proposal says nothing about property ownership and control. The same critique can also be applied to Piketty’s and Dixon and Suk’s proposals. Moreover, by focusing on constitutionalizing specific approaches rather than the principles of economic equality, these approaches may not be flexible enough. As argued earlier, it is uncertain how the dialectical motion of capital, or how the history of mankind will progress such that inequality reproduces itself for that we now cannot fathom. To wrestle with such forces, perhaps the necessary components for necessary political economy for the constitution would be too many to be constitutionalized. While some of these ideas may be taken seriously to amend the constitution, it

⁵⁵⁸ Ibid., 384.

⁵⁵⁹ Such as Claremont and Pomona

⁵⁶⁰ Dixon and Suk, 381-384.

is arguably more attractive to use an approach that is both more encompassing and flexible. In this regard, I shall then propose a bold constitutional amendment regarding the prerequisite of the constitutional order, which seeks to fundamentally reorient the rights of man to the rights of citizen and realize, preserve, and defend economic equality.

III. A Bold Constitutional Amendment – The Constitutional Guarantee for Human Emancipation

I shall list my proposal for the amendment as follows and defend it afterwards:

- The General Provision Regarding the Prerequisite of the Constitutional Order and Its Relations with Constitutional Rights and Liberties

- Section 1. The state and civil community shall resolutely strive to realize, preserve, and defend a constitutional order constituted by all free citizens as ends in themselves with equal worth in political, civil, economic, and social life. Thus, the political and civil community including but limited to the civil society, government, and judges, shall exercise their due constitutional duties to resolutely realize, preserve, and defend such a constitutional order.
- Section 2. Within this constitutional order, any constitutional right and liberty shall have equal status rather than an absolute status to preserve a whole scheme of liberty. The preservation of this whole scheme of liberty necessarily requires regulations of some rights to preserve the equal status of other rights. However, such regulations shall never be interpreted as a denial of any citizen's rights and liberty.
- Section 3. In necessary situations, citizens are obligated to exercise their rights or accept regulations of rights in accordance with their constitutional duty to the public interest without incurring excessive burdens to resolutely realize, preserve, and defend the constitutional order.
- Section 4. This General Provision shall be the guideline for the following provisions of economic equality and economic liberty.

- The Provision on Economic Equality

- Section 1. A political economy, with general economic equality and general equal economic opportunity, constitutes the necessary economic prerequisite of the constitutional order stated in the General Provision.
- Section 2. When this political economy is not realized or threatened, the Legislature is constitutionally obligated to take reasonable measures, within its resources, without violating a whole scheme of constitutional rights and liberties, and informed by coherent principles from democratic discussions and social conditions, to progressively and resolutely realize and preserve this economic prerequisite and defend the economic prerequisite after its realization.
- Section 3. The Constitution does not permit any legislation that treats citizens unequally based on different on social origin, property, and birth; the state must also regulate the distribution of resources for the welfare of the people as the whole and against the

concentration of ownership or control of property in a few individuals detrimental to the public interest.

- The Provision on Liberty and Property

- Section 1. The state recognizes the right of property as the guarantee of personal liberty and guarantees not to pass any law that permits arbitrary deprivation of property or the right to transfer, bequeath, and inherit property without due process of law.
- Section 2. The guarantee of personal liberty also requires the right to pursue self-affirming occupations or other reasonable means to manifest their values and satisfaction of personal needs and aspirations.
- Section 3. The rights of liberty and property presuppose the constitutional order and the political, civil, and economic community that make such rights possible; therefore, such constitutional rights presuppose the constitutional duty, and the exercise of these rights and duties is conditioned upon and informed by the constitutional order stated in the General Provision and its economic prerequisite stated in The Provision on Economic Equality and shall be regulated when public interests require.

Now I shall explain and defend each provision in amendment.

As Section 4 says, the General Provision is the guideline for the sustaining the constitutional order. It also stipulates the relations among various civil rights, liberties, and their places in the constitutional order, particularly regarding liberty and equality. Section 1 defines the constitutional order as the order, under which everyone should be treated with equal worth and as ends in themselves not only in political life but also in “civil and social life”. Citizens should also exercise their “due constitutional duties to resolutely realize, preserve, and defend such a constitutional order.” This constitutional order is the order enlightened by the rights of citizens rather than the rights of man. By instituting the rights of man, citizens can recognize each other as equals only in the political sphere. In civil society, they pursue their egoistic interests without due consideration and concerns of burdens of their actions on their fellow citizens, such that citizens become *private individuals* in civil society, “treats other men as means, degrades himself to the role of a mere means, and becomes the plaything of alien

powers.”⁵⁶¹ On the other hand, by institutionalizing the rights of citizens, citizens can exercise their private power in accordance to what the public requires and are also able to lead a life of their own. In this way, they treat their fellow citizens as ends in themselves.

While Section 1 stipulates the forms of a constitutional order of based on the rights of citizen, Section 2 and 3 provide the general principles of how to understand and manage the relations of various civil rights and liberties. The constitutional order of the rights of citizen denies any supremacy or quasi-religious status of any particular right or liberty over others. Rather, it recognizes the equal importance of every right and liberty and seeks to preserve a whole scheme of rights and liberties. It follows that when necessary situations arise, citizens shall exercise their constitutional duties to their fellow members and the community as a whole, and any regulation of certain rights or liberties that works toward this end shall not be interpreted as a denial of right, as long as the burden imposed upon citizens is not excessive in order to sustain the constitutional order.

Other constitutions in the world have similar provisions. For instance, the German Constitutional Court defined the “inviolable” “dignity of man” stipulated in Article 1(1) of the German Basic Law by using the principle that “each person must always be an end in himself.”⁵⁶² Meanwhile, some provisions in the German Basic Law have implicit presuppositions that some rights should be regulated and serve the preservation of other rights, as we shall see soon in the area of property and liberty.⁵⁶³ Moreover, the terms of “fulfilling duties without excessive burden” also resemble the proportionality principle of the German Basic Law, which says that rights can be limited if and only if the ends that a limitation serves is legitimate; this

⁵⁶¹ Marx, *On the Jewish Question*, 34.

⁵⁶² David P. Currie, “Lochner Abroad: Substantive Due Process and Equal Protection in the Federal Republic of Germany,” 1989 Supreme Court Review 333 (1989), 356.

⁵⁶³ *Ibid.*, 342-347.

limitation is necessary and does not exceed the reasonable burden for citizens.⁵⁶⁴ Therefore, grounded in the rights of citizen, what the General Provision requires for the whole political, civil, and social community is the reasonable and due responsibility to each fellow citizen, rather than unreasonable and irrational altruism and other-regarding moral psychology. How to apply this General Provisions and its principle can be seen in the following two provisions, namely the Provision on Economic Equality and the Provision of Liberty and Property.

For the Provision on Economic Equality, Section 1 recognizes a political economy of general economic equality and equal opportunity constitutes the socioeconomic prerequisite of a full constitutional order. Therefore, the duty to sustain the constitutional order as stipulated in the General Provision also require to resolutely realize, preserve, and defend this prerequisite. This is arguably another type of pre-commitment strategy that is more flexible and comprehensive to wrestle with the current and future forces of inequality. It is important to point out that this provision is not merely a declaration of constitutional commitment but an enforcement provision. Like the provisions of socioeconomic rights in the South African Constitution, the duty of the state to defend human dignity and personality, and many amendments to the US Constitution since the Thirteenth Amendment.⁵⁶⁵ Section 2 combines a positive duty by the state and negative protection of the rights.⁵⁶⁶ Positively, it commands specifically the Legislature to “take reasonable measures, within its resources, and informed by democratic discussions, and social conditions, to progressively realize or resolutely preserve and defend the economic prerequisite after realizing the prerequisite.” Thus, this clause provides a way for the judiciary to intervene, and the way of enforcement is not judicial. It opens the door of judicial intervention in non-

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⁵⁶⁵ The Bill of Rights: A Transcription, *The National Archives*, <https://www.archives.gov/founding-docs/bill-of-rights-transcript>, accessed May 11, 2020; Sunstein, *The Second Bill of Rights*, 217.

⁵⁶⁶

judicial forms because it commands the legislature to take actions, policies, and actions to secure the political economy of general economic equality and equal opportunity. The final enforcement comes out of the legislature and is thus non-judicial.⁵⁶⁷ Negatively, Section 2 will also protect the necessary socioeconomic prerequisite if the prerequisite is not realized or threatened. For instance, if the state does little to secure such conditions, but it is able to do more based on a thorough examination of the social conditions, current resources, and means available, then the judiciary would be obligated to intervene.⁵⁶⁸ If the effect of inequality threatens to relations of rights and thus the constitutional order prescribed in the General Provision, then the judiciary would also be obligated to intervene.

Section 3 is mainly informed by some insightful proposals by Sitaraman, Piketty, and Dixon and Suk. Although I think it's better to constitutionalize the principles of a constitutional order of the rights of citizen, the socioeconomic-constitutional prerequisite, and the regulation of property rights in particular, I do recognize that to correct the current wrongs of capitalism, it is helpful to constitutionalize the gist of what these approaches aspire to. In this way, the constitution can tame the current dynamics of inequality in political and non-political forms. Therefore, it is helpful to constitutionally demand regulating property and ownership concentration in the hands of a few and instituting antidiscrimination laws based on social origins, property, and birth.

Finally, I should put it bluntly that the Provision on Liberty and Property is specifically formulated to dethrone the supremacy and quasi-religious status of property rights, which currently stand as the key representative of the rights of man. As some may already see it based on the General Provision, the Provision on Liberty and Property shall not be interpreted as a

⁵⁶⁷ Sunstein, 218-219.

⁵⁶⁸ Ibid.

denial of property rights. Section 1 already guarantees property rights in ways that may sound too familiar to many, and Section 2 recognizes economic liberty, thus embedding economic liberty as another as equally important political liberty in the constitutional scheme. More importantly, Section 3 stipulates that liberty and property presuppose a constitutional duty to exercise these rights and liberties or accept the regulation of rights for the constitutional order and its prerequisite. What Section 3 essentially says is that property rights are not absolute. Citizens of course should safeguard their economic liberties and rights, but they should not safeguard and exercise it for their own sake. Rather, they should exercise these liberties rights and accept their regulations in necessary circumstances, and qualified exercise and regulations should not be deemed as violations of rights. Non-violation is not taking property for public use and thus does justify the need for compensation. Again, the German Basic Law can shed some light on this. Article (14 (2)) says property right implies the duty to serve the “public weal,” although what constitutes the exact “public weal” is subject to open discussion by the public.⁵⁶⁹ This definition of property rights and other components of German Constitutionalism justifies many regulations of property that may sound a little alien to countries with rich capitalist ethos. For example, lawmakers have the authority to determine the “content and limits” of property but do not monopolize the definitions property rights.⁵⁷⁰ Duties of property rights in various circumstances in German Constitutionalism include but are not limited to regulations on farm and forest lands “against detrimental interests of agriculture or forestry,” wealth tax, and industrial democracy.⁵⁷¹ Thus, German courts rule that wealth tax is not confiscatory, and

⁵⁶⁹ Currie, 339.

⁵⁷⁰ Ibid.

⁵⁷¹ Ibid., 343.

embedding social duty into property rights also enable the German Basic Law to provide a constitutional foundation of codetermination in the corporate world.⁵⁷²

I finish explaining and defending my proposal of a constitutional amendment, which I think fundamentally transforms the rights of man to the rights of citizen and provides a legal guarantee to eliminate the unequalizing and alienating forces in capitalism. While the two previous chapters aim to realize human emancipation in the empirical world by reorganizing the social economy consisted of socioeconomic structures, this chapter elevates the rights of man into the rights of citizen, thus providing a legal guarantee to human emancipation in the legal structure. The combination of the socioeconomic and legal structures thus completes the Social Economy, transcends capitalism, realizes the public ideology of equal liberty, fair equal opportunity, and equality of resources, and completes the noble ideal of human emancipation.

⁵⁷² Ibid., 344.

Epilogue – March toward Human Emancipation

This paper provides some perspectives on how to march toward human emancipation. To Marx, the realization of this noble ideal relies on a big advance in productive forces. But as I illustrate throughout this paper, we do not have to wait for this uncertain development. Rather, a wide range of possibilities are available, and we should exercise our agency, engage in collective deliberation and concrete experimentation, to realize human emancipation and the rights of citizen in political, economic, and civil spheres. Marx says that “the history of all hitherto existing society is the history of class struggles,”⁵⁷³ and Piketty says that “the history of all hitherto existing societies is the history of the struggles of ideologies and the and the quest for justice.” Far from coming to an end, history has to move forward to the ultimate truth and realize what we fundamentally are as human. The responsibility is upon us, and we shall drive history forward to march to human emancipation.

While I do not expect many people to read this thesis, (as I never read any other excellent thesis by myself...), I do sincerely hope that if someone reads this far, he or she shall retain the awe to this ideal for mankind and exercise his or her due responsibility. I totally understand that the exact form of this responsibility for a specific individual is hard to find, as alienation might be more suffocating to experience than what is stated in this theoretical analysis. Nevertheless, I still believe that each of us as a citizen still has something that we should do such that mankind can move a little closer to this noble ideal. In doing so, like Marx, we can proudly say that “our deeds will live on quietly and perpetually at work,” and “we experience no petty, limited, selfish joy, but our happiness will belong to millions.”⁵⁷⁴ On our death beds, we can also proudly say

⁵⁷³ Marx and Engels, *Manifesto of the Communist Party*, 473; Piketty, *Capital and Ideology*, 1035.

⁵⁷⁴ Karl Marx, “Reflections of A Young Man on the Choice of A Profession,” *Marxist Internet Archive*, https://www.marxists.org/archive/marx/works/download/Marx_Young_Marx.pdf, accessed May 11, 2020.

that, “all my life, all my strength were given to the finest cause in all the world—the fight for the Liberation of Mankind.”⁵⁷⁵

Glory to human emancipation. Glory to mankind.

⁵⁷⁵ Nikolai Ostrovsky, *How the Steel Was Tempered*, quotes on goodreads, https://www.goodreads.com/author/quotes/444847.Nikolai_Ostrovsky, accessed May 11.

Bibliography

- Ackerman, Bruce and Anne Alstott, "Why Stakeholding?," in *Redesigning Distribution*, edited by Erik Olin Wright. 43-65. New York, NY and London: Verso, 2006.
- Ackerman, Bruce. "The New Separation of Powers." *Harvard Law Review* 113, no. 3 (2000): 703. doi:10.2307/1342286
- Anderson, Elizabeth. *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)*. Princeton, NJ: Princeton University Press. 2017.
- Appel, Hilary and Mitchell A. Orenstein. *From Triumph to Crisis: Neoliberal Economic Reform in Postcommunist Countries*. Cambridge, UK: Cambridge University Press, 2018.
- Arneson, Richard. "Justice Is Not Equality." *Ratio* 21, no. 4 (2008).
- Berlin, Isaiah. "Two Concepts of Liberty," in *The Proper Study of Mankind: An Anthology of Essays*. New York, NY: Farrar, Strauss and Giroux. 1998.
- Boudreaux, Karol and Tyler Cowen. "The Micromagic of Microcredit." *Wilson Quarterly*. Winter 2008, <http://archive.wilsonquarterly.com/essays/micromagic-microcredit>, accessed May 10, 2020
- Bruenig, Matt.
- "Index Funds Are Proof of Concept For Market Socialism." *People's Policy Project*. August 17, 2017, <https://www.peoplespolicyproject.org/2017/08/17/index-funds-are-a-proof-of-concept-for-market-socialism/>. accessed May 11, 2020.
 - "Sweden Has a 70% Tax Rate and It's Just Fine." *Jacobin*. January 7, 2019, <https://jacobinmag.com/2019/01/ocasio-cortez-taxes-rich-sweden>. accessed May 10, 2020.

- "Social Wealth Fund for America." *People's Policy Project*,

<https://www.peoplespolicyproject.org/projects/social-wealth-fund/>. accessed May 10, 2020.

Cherniss, Joshua and Henry Hardy. "Isaiah Berlin." *The Stanford Encyclopedia of*

Philosophy (Spring 2020 Edition), Edward N. Zalta (ed.), URL =

<<https://plato.stanford.edu/archives/spr2020/entries/berlin/>>.

Coase, R. H. "The Problem of Social Cost." *The Journal of Law & Economics* 3 (1960): 1-44,

www.jstor.org/stable/724810. Accessed March 2, 2020.

Cockshott, Paul and David Zachariah, *Arguments for Market Socialism*, lulu.com; null edition.

Cohen, G. A.

- "Against Capitalism," <https://www.youtube.com/watch?v=IJtSXkZQf0A>, accessed May 10, 2020.

- *If You're an Egalitarian, How Come You're So Rich?*. Cambridge, MA: Harvard University Press. 2000. Kindle Edition.

- *Rescuing Justice and Equality*. Cambridge, MA and London, England: Harvard University Press. 2008

- *Self-Ownership, Freedom, and Equality*. Cambridge, England: Cambridge University Press. Kindle Edition.

- "The Labor Theory of Value and the Concept of Exploitation." *Philosophy & Public Affairs* 8, no. 4 (1979): 338-60. accessed May 11, 2020. www.jstor.org/stable/2265068.

- "The Structure of Proletarian Unfreedom," *Philosophy & Public Affairs* 12, no. 1 (1983): 4, accessed May 11, 2020. www.jstor.org/stable/2265026.

Collier, Paul. *The Bottom Billion*. Oxford and New York, NY: Oxford University Press. 2007.

Comparative Constitutionalism: Cases and Materials. St. Paul, MN: West Academic Publishing.

Compiled by Norman Dorsen, Michael Rosenfeld, András Sajó, Susanne Baer, and
Susanna Mancini.

Currie, David P. "Lochner Abroad: Substantive Due Process and Equal Protection in the Federal
Republic of Germany." 1989 Supreme Court Review 333 (1989).

Dahl, Robert. *A Preface to Economic Democracy*. Berkeley and Los Angeles, CA: University of
California Press. 1985.

Davies, Rob. "Norway's \$1tn wealth fund to divest from oil and gas exploration." Institutional
Investor, March 8, 2018, [https://www.theguardian.com/world/2019/mar/08/norways-1tn-
wealth-fund-to-divest-from-oil-and-gas-exploration](https://www.theguardian.com/world/2019/mar/08/norways-1tn-wealth-fund-to-divest-from-oil-and-gas-exploration). Accessed November 11, 2019.

Deng, Xiaopin. "Communique of the Third Plenary Session of the Eleventh Committee of the
Communist Party of China," "Build Socialism with Chinese Characteristics" and "Uphold
the Four Basic Principles" in *Sources of Chinese Tradition: Volume Two: From 1600
Through the Twentieth Century (Introduction to Asian Civilizations)*. compiled by
William Theodore de Bary. New York, NY: Columbia University Press. Kindle Edition.

Dixon, Rosalind and Julie Suk. "Liberal Constitutionalism and Economic Inequality." *The
University of Chicago Law Review* 85, no. 2 (2018): 369-502,
<https://www.jstor.org/stable/26455911>.

Dworkin, Ronald.

- *Law's Empire*. Cambridge, MA and London, England: The Belknap Press of Harvard
University Press. 1986.

- *Sovereign Virtue: The Theory and Practice of Equality*. Cambridge MA and London,
England: Harvard University Press,

- “The Moral Reading of the Constitution.” *The New York Review of Books*. March 21, 1996, <https://www.nybooks.com/articles/1996/03/21/the-moral-reading-of-the-constitution/>. Accessed May 11, 2020.

Doody, Ryan. “A Kantian Duty of Beneficence,” November 5, 2014, <http://www.mit.edu/~rdoody/Morality%20Ethics%20Handouts/KantianBeneficence.pdf>. Accessed February 3, 2019.

Engels, Friedrich. *The Conditions of the Working Class in England*. Marx/Engels Internet Archive, <https://www.marxists.org/archive/marx/works/1845/condition-working-class/>.

Fishkin, Joseph and William E. Forbath. “The Anti-Oligarchy Constitution.” Boston University Law Review. Vol. 94, No. 671, 2014; U of Texas Law, Public Law Research Paper No. 561. Available at SSRN: <https://ssrn.com/abstract=2431255>.

Friedman, David. *Law’s Order*. Princeton: N.Y.: Princeton University Press. 2000.

Friedman, Milton. “The Social Responsibility of Business is to Increase its Profits.” *The New York Times Magazine*. September 13, 1980. <http://www.umich.edu/~thecore/doc/Friedman.pdf>. Accessed May 6, 2018.

Germany (1,231) > Freedom of association, collective bargaining and industrial relations (32) http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=13898&p_country=DEU&p_count=1231&p_classification=02&p_classcount=32

Green, Michael. “Dworkin’s Auction” and “Dworkin and the Social Safety Net,” lecture notes of *Freedom, Markets, and Well-Being* at Pomona College.

“Government Pension Fund Act,” *Norges Bank Investment Management*, <https://www.nbim.no/en/organisation/governance-model/government-pension-fund-act/>, accessed May 10, 2020.

Gowan, Peter and Mio Tastas Viktorsson. "Revisiting the Meidner Plan." *Jacobin*. August 22, 2017, <https://www.jacobinmag.com/2017/08/sweden-social-democracy-meidner-plan-capital>. Accessed May 11, 2020.

Hayek, F. A..

- "The Use of Knowledge in Society." *The American Economic Review* 35, no. 4 (1945): 519-30. Accessed May 10, 2020. www.jstor.org/stable/1809376.

- *The Road to Serfdom*, Routledge, London: The University of Chicago Press, original text published in 1944, 2007.

- "Socialist Calculation: The Competitive 'Solution'." *Economica*. New Series, 7, no. 26 (1940): 125-49. Accessed May 11, 2020. doi:10.2307/2548692.

Hanna, Thomas M. "Nationalization Is as American as Apple Pie." *Jacobin*. November 4, 2019, <https://www.jacobinmag.com/2019/11/nationalization-is-as-american-as-apple-pie>. accessed May 11, 2020.

Hansmann, Henry. *The Ownership of Enterprise*. Cambridge, MA and London, England: The Belknap Press of Harvard University Press, 1996.

Hegel, G. W. F.

- *Phenomenology of Spirit*, translated by A. V. Miller. Oxford, New York, Toronto, Melbourne, 1977, 51.

- *Reason in History: A General Introduction to the Philosophy of History*. Upper Saddle River, NY: Prentice-Hall, INC. 1997.

Holmes, Stephen and Cass R. Sunstein. *The Cost of Rights: Why Liberty Depends on Taxes*. New York, NY and London: W.W. Norton & Company. 1999.

Hsieh, Nien-hê.

- "Rawlsian Justice and Workplace Republicanism." *Social Theory and Practice* 31, no. (2005): 115-142. <http://www.jstor.org/stable/23558690>.

- "Work, Ownership, and Productive Enfranchisement," in *Property-Owning Democracy – Rawls and Beyond*, edited by Martin O'Neill and Thad Williamson. West Sussex, UK: Wiley, 149-162.

Human Development Reports. United Nations Development Programme, <http://hdr.undp.org/en/2018-update>. Accessed May 10, 2020; GNI Per Capita Ranking, Atlas Method and PPP Based.

Jackson, Ben. "Property-Owning Democracy: A Short History," in *Property-Owning Democracy: Rawls and Beyond*, 2012.

Josephson, Amelia. "2019-2020 Federal Income Tax Brackets." *Smart Asset*. March 24, 2020, <https://smartasset.com/taxes/current-federal-income-tax-brackets>. Accessed May 10, 2020.

Kant, Immanuel.

- *Critique of Pure Reason*, translated by Paul Guyer and Allen Wood. Cambridge, England: Cambridge University Press. 1998.

- *The Groundwork of Metaphysics of Morals*, translated and edited by Mary Gregor. Cambridge, England: Cambridge University Press. 1998.

Korsgaard, Christine. "The right to lie: Kant on dealing with evil." *Philosophy and Public Affairs* 15, no. 4: 325-349.

Kymlicka, Will. *Contemporary Political Philosophy*. Oxford, England: Oxford University Press. DOI: 10.1093/hepl/9780198782742.001.0001;

Lansley, Stewart. in *A Sharing Economy: How Social Wealth Funds Can Reduce Inequality and Help Balance the Books*. Bristol: Bristol University Press. 2016.

Larsen, Erling Røed. "Escaping the Resource Curse and the Dutch Disease? When and Why Norway Caught up with and Forged Ahead of Its Neighbors." *The American Journal of Economics and Sociology* 65, no. 3 (2006): 619. <http://www.jstor.org/stable/27739583>.

"Law of Value 10: Price and Value," *Kapitalism101*, December 23, 2012, <https://kapitalism101.wordpress.com/2012/12/23/law-of-value-10-price-and-value/>.

Liebman, Marcel and Ralph Miliband. "Beyond Social Democracy." *Jacobin*. January 23, 2018. <https://www.jacobinmag.com/2018/01/social-democracy-socialism-ralph-miliband>. accessed May 10, 2020.

Liu, Cixin. *The Wage of Humanity in The Wandering Earth: Classic Science Fiction Collection* by Liu Cixin. Kindle Edition.

Madison, James. Alexander Hamilton, and John Jay, *The Federalist Papers: A Collection of Essays Written In Favour of the New Constitution*, originally published 1788, 2015, 43, Kindle Edition.

Marx, Karl.

- "Abstract from the Preface of A Contribution to the Critique of Political Economy."

Marxists International Archive. Written in 1859,

<https://www.marxists.org/archive/marx/works/1859/critique-pol-economy/preface-abs.htm>. Accessed May 10, 2020.

- *Capital: A Critique of Political Economy, Volume I*, translated by Ben Fowkes, Penguin Books, originally published 1867, 1990.

- “*On the Jewish Question*,” “*Economic and Philosophic Manuscripts of 1844*,” “*The German Ideology*,” and “*The Critique of the Gotha Program*” in *The Marx-Engels Reader*, second edition edited by Robert C. Tucker, New York, NY and London, UK: W. W. Norton & Company, Inc, 1978.
 - “Reflections of A Young Man on the Choice of A Profession.” *Marxist Internet Archive*,
 - “The Inaugural Address to the International Working Men’s Associations,” *Marxists Internet Archive*, written during October 21-27, 1864,
<https://www.marxists.org/archive/marx/works/1864/10/27.htm>, accessed May 10, 2020.
 - “The Preface of A Contribution to the Critique of Political Economy.” *Marxists International Archive*. Written in 1859,
<https://www.marxists.org/archive/marx/works/1859/critique-pol-economy/preface-abs.htm>. Accessed May 10, 2020.
https://www.marxists.org/archive/marx/works/download/Marx_Young_Marx.pdf.
accessed May 11, 2020.
- Marx, Karl and Friedrich Engels. “*The German Ideology*,” “*Manifesto of the Communist Party*,” in *The Marx-Engels Reader*, second edition edited by Robert C. Tucker. New York, NY and London, UK: W. W. Norton & Company, Inc, 1978.
- McCarthy, Michael A. “Economic Democracy, If We Can Keep It.” *Jacobin*, May 30, 2019,
<https://jacobinmag.com/2019/05/bernie-sanders-meidner-plan-worker-ownership>,
Accessed May 11, 2020.
- McElhaney, Alicia. “Norway’s Massive Pension Fund Returns 19.9 Percent.” *Institutional Investor*. February 27, 2020,

<https://www.institutionalinvestor.com/article/b1kjglcy66gpz1/Norway-s-Massive-Pension-Fund>Returns-19-9-Percent>. Accessed May 10, 2020.

Meade, James. "Efficiency, Equality and the Ownership of Property." originally published by George Allen & Unwin, 1964, 21-81, <https://benjaminmoll.com/wp-content/uploads/2019/07/meade.pdf>. accessed May 10, 2020.

Mishel, Lawrence and Julia Wolfe. "CEO compensation has grown 940% since 1978." *Economic Policy Institute*. August 14, 2019, <https://www.epi.org/publication/ceo-compensation-2018/>. Accessed April 19, 2020.

Moriarty, Jeffrey. "Business Ethics." *The Stanford Encyclopedia of Philosophy* (Fall 2017 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/fall2017/entries/ethics-business/>. Accessed May 6, 2018.

Mounk, Yascha. "Democracy is Deconsolidating" in *The People VS. Democracy*. Cambridge, MA: Harvard University Press.

Murphy, Robert P. "Problems with the Cost Theory of Value." *The Mises Institute*. May 23, 2011, <https://mises.org/library/problems-cost-theory-value>. Accessed May 11, 2020

Nagel, Thomas. "Rawls and Liberalism" In S. Freeman (Ed.) *The Cambridge Companion to Rawls*, Cambridge Companions to Philosophy. Cambridge, MA: Cambridge University Press, doi:10.1017/CCOL0521651670.002.

"Norwegian society." The Norwegian Permanent Delegation to the Council of Europe, <https://www.norway.no/en/missions/coe/values-priorities/norway-today/>. Accessed November 11, 2019.

“Norway’s sovereign-wealth fund passes the \$1trn mark.” *The Economist*. September 21, 2017.

<https://www.economist.com/graphic-detail/2017/09/21/norways-sovereign-wealth-fund-passes-the-1trn-mark>. Accessed November 11, 2019.

“Norway wealth fund grows to record 10 trillion crowns.” Reuters. October 25, 2019,

<https://www.reuters.com/article/us-norway-swf-record/norway-wealth-fund-grows-to-record-10-trillion-crowns-idUSKBN1X41AO>. Accessed November 11, 2019.

Nozick, Robert. *Anarchy, State, and Utopia*. New York, NY: The Basic Books, original edition published in 1974, 2013.

O’Neill, Martin. “Liberty, Equality and Property-Owning Democracy.” *Manchester Centre for Political Theory*, 2009,

<http://hummedia.manchester.ac.uk/schools/soass/politics/research/workingpapers/mancept/ONeill-LibertyEqualityandProperty-OwningDemocracy.pdf>, 1-24.

Ostrovsky, Nikolai. *How the Steel Was Tempered*. Quotes on goodreads,

https://www.goodreads.com/author/quotes/444847.Nikolai_Ostrovsky. accessed May 11.

Otsuka, Michael. “Appropriating Lockean Appropriation on Behalf of Equality” in *Property Theory: Legal and Political Perspectives*.

Paine, Thomas. *Agrarian Justice*. grundskyld.dk, 1999, compiled by Thomas Piketty,

<http://piketty.pse.ens.fr/files/Paine1795.pdf>. accessed May 10, 2020.

Piketty, Thomas and Emmanuel Saez. “Inequality in the long run.” *Science*. May 23, 2014:

Vol. 344, Issue 6186, pp. 838, DOI: 10.1126/science.1251936. Accessed May 10, 2020.

Piketty, Thomas.

- *Capital and Ideology*. Cambridge, MA and London, England: The Belknap Press of Harvard University Press. 2020.

- *Capital in the Twenty-First Century*. Cambridge, MA and London England. 2014.
- Pollard, Niklas. "Sweden, where CEOs come cheap and still deliver." *Reuter.*, June 14, 2012, <https://www.reuters.com/article/us-sweden-executives-salaries/sweden-where-ceos-come-cheap-and-still-deliver-idUSBRE85D0R920120614>. accessed April 19, 2020.
- Porter, Michael E. and Mark R. Kramer. "Strategy and Society: The Link Between Competitive Advantage and Corporate Social Responsibility." *Harvard Business Review*. The December 2006 Issue, <https://hbr.org/2006/12/strategy-and-society-the-link-between-competitive-advantage-and-corporate-social-responsibility>. Accessed May 3, 2019.
- Putnam, Robert. "Bowling Alone: America's Declining Social Capital." *Journal of Democracy*, Vol 6, No. 1. January 1995, <http://muse.jhu.edu/article/16643>.
- Rankin, Jennifer. "Happiness Is on the wave in the US, UN global report finds." *The Guardian*, March 20. 2017, <https://www.theguardian.com/world/2017/mar/20/norway-ousts-denmark-as-worlds-happiest-country-un-report>. Accessed May 10, 2020.
- Rawls, John.
 - *A Theory of Justice*, Cambridge. MA: Harvard University Press, 1999.
 - "Kantian Constructivism in Moral Theory." *The Journal of Philosophy* 77, no. 9 (1980): 515-72. Accessed May 10, 2020. doi:10.2307/2025790.
 - *Justice as Fairness: A Restatement*. Cambridge, MA: Harvard University Press, 2001.
- "Returns," *Norges Bank Investment Management*, <https://www.nbim.no/en/the-fund/returns/>, accessed May 10, 2020.
- Robert, Johnson and Cureton, Adam. "Kant's Moral Philosophy." *The Stanford Encyclopedia of Philosophy* (Spring 2019 Edition), Edward N. Zalta (ed.), URL = [<https://plato.stanford.edu/archives/spr2019/entries/kant-moral/>](https://plato.stanford.edu/archives/spr2019/entries/kant-moral/).

Roemer, John.

- *A Future for Socialism*. Cambridge, MA: Harvard University Press. 1994.

- "Equal Shares" in *Equal Shares*. Edited by Erik Olin Wright. London and New York, NY: Verso, 1996.

- *Free to Lose: An Introduction to Marxist Economic Philosophy*, Cambridge, MA: Harvard University Press, 1988.

Sandel, Michael j. "The Constitution of the Procedural Republic" in *Democracy's Discontent*. Cambridge, MA and London, England: The Belknap Press of Harvard University Press. 1996.

Sajó, András. "How the Rule of Law Killed Hungarian Welfare Reform." 5 E. Eur. Const. Rev. 31 (1996).

Savage, Luke. "America is an Oligarchy. It Doesn't Have to Be." *Jacobin*. February 25, 2019, <https://www.jacobinmag.com/2019/02/us-oligarchy-wealthy-billionaires-democracy>. Accessed April 18, 2020.

Schweikart, David. "Property-Owning Democracy or Economic Democracy?" in *Property-Owning Democracy: Rawls and Beyond*. 2012.

Shapiro, Ian. *The Moral Foundations of Politics*. New Haven; London: Yale University Press, 2003. Accessed May 10, 2020

Strudler, Alan. (2017), What to Do with Corporate Wealth. *Journal of Political Philosophy*, 25: doi:[10.1111/jopp.12106](https://doi.org/10.1111/jopp.12106).

Starbucks Stories * News, <https://stories.starbucks.com/>, accessed May 10, 2020.

Smith, Adam.

- *An Inquiry into the Nature and Causes of the Wealth of Nations*. Chicago, IL:

University Of Chicago Press. Kindle Edition.

- *The Theory of Moral Sentiments* (Kindle Active TOC). Uplifting Publications. Kindle Edition.

Steiner, Hillel. "The Natural Right to the Means of Production." *The Philosophical Quarterly* (1950-) 27, no. 106 (1977): 41-49, accessed May 10, 2020. doi:10.2307/2218927.

Sunstein, Cass R.

- "Sunstein on FDR's Second Bill of Rights." *The University of Chicago Law School*.

October 1, 2014, <https://www.law.uchicago.edu/news/sunstein-fdrs-second-bill-rights>.

Accessed May 16, 2019.

- *Designing Democracy, What Constitutions Do*. New York. NY: Oxford University Press. 2001.

The Bill of Rights: A Transcription, *The National Archives*, <https://www.archives.gov/founding-docs/bill-of-rights-transcript>, accessed May 11, 2020.

The official page of The National Center for Employee Ownership, <https://www.nceo.org/>, accessed May 10, 2020.

The CSR case of an internet firm (in Chinese). <http://msc-world.com/news/detail/id/141/status/1>.

Tomasi, John. *Free Market Fairness*, Princeton University Press, Kindle Edition.

Tushnet, Mark. *Weak Courts, Strong Rights*. Princeton, NJ: Princeton University Press. Kindle Edition.

Vallentyne, Peter. "Left Libertarianism." *The Oxford Handbook of Political Philosophy*, Edited by David Estlund. June 12, DOI: 10.1093/oxfordhb/9780195376692.013.0008. accessed May 10, 2020.

Van Parijs, Philippe. "Basic Income: A simple and powerful idea for the twenty-first century," in *Redesigning Distribution*. 3-42.

Wenar, Leif. "John Rawls". *The Stanford Encyclopedia of Philosophy* (Spring 2017 Edition). Edward N. Zalta (ed.). URL = <https://plato.stanford.edu/archives/spr2017/entries/rawls/>. Accessed May 6, 2018.

Wood, Allen. *Karl Marx*. New York. NY: Routledge, the Taylor & Francis Group. 2004.

Wright, Erik Olin. *Envisioning Real Utopias*. London, England and Brooklyn, NY: Verso. 2010.

Yunker, James A. "Post-Lange Market Socialism: An Evaluation of Profit-Oriented Proposals." *Journal of Economic Issues* 29, no. 3 (1995): 683-717. Accessed May 11, 2020. www.jstor.org/stable/4226984.

Zeballo-Roig, Joseph. "4 European countries still have a wealth tax. Here's how much success they've each had." *Business Insider*. November 7, 2019, <https://www.businessinsider.com/4-european-countries-wealth-tax-spain-norway-switzerland-belgium-2019-11>. accessed May 10, 2020.

